GAC MEETINGS

Meeting 4: Los Angeles - 2 November 1999

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Governmental Advisory Committee
Meeting IV

9:15 am to 7:30 p.m.
2 November 1999

Gateway Room, Sheraton Gateway Hotel
6101 West Century Boulevard, Los Angeles, California, USA

EXECUTIVE MINUTES

Present:

Chair - Dr Paul Twomey
Secretariat - Ms Ann Marie Plubell (Secretary-Advisor to GAC)
ICANN - Mr. Michael Roberts
Argentina - Mr. Rafael Desanzo, Mr. Marcelo Gilardoni (advisor)
Australia - Ms Nikki Vajrabukka
Austria - Mr. Christian Singer, Mr. Herbert Vitzhum (advisor)
Brazil - Mr. Vicente Landim de Macedo Filho
Canada - Ms Kim Haaland
Chile - Mr. Andres Culagovski
China - Mr. Chen Yin
Denmark - Ms. Lisa Fuhr Hovind
European Union- Mr. Christopher Wilkinson, Mr. Richard Delmas (advisor)
France - Mr. Alain Le Gourrierec, Ms Isabelle Lafontaine (advisor)
Gambia- Mr. Ibrimah Bandeh
Germany - Mr. Michael Leibrandt
Hong Kong- Mr. Kam-Hung Lau, Mr. Victor Lam (advisor)
Ireland- Mr. Aidan Ryan, Mr. Joe Gallagher
Italy - Mr. Stefano Trumpy
Japan - Mr. Jun-ichiro Miyazaki, Mr. Satoshi Nohara (advisor)
Korea - Mr. Sanghun Lee
Malaysia - Ms. Fahiza Bashir, Mr. Mohamad Fadhillah
Netherlands - Mr. Mohammed Nasrullah
New Zealand - Mr. Jim Howell, Ms.Sue Leader (advisor)
Niue-Mr. Richard Duncan, Mr. Gerald W. McClurg (advisor)
Norway - Mr. Arne Litlere
Russian Federation- Mr. Yuri A. Fontanov, Mr. Ivan M. Kurnasov (advisor)

Singapore- Mr. Yew Tuan Khaw
Spain - Mr Cristobal Guzman, Mr Angel Garcia (advisor)
Sweden - Mr. Markus Boberg, Mr. Henrik Nilsson (advisor)
Switzerland - Mr. Francois Maurer
Taiwan-Dr. Kai-Sheng Kao, Mr. William Lin (advisor)
United Kingdom - Mr. Neil Feinson,
United States of America - Ms. J Beckwith Burr, Ms. Karen Rose (advisor),
World Intellectual Property Organisation (WIPO) - Mr. Christopher Gibson

Observers

Brazil -Mr. Jose Alexandre Novaes Bicalho
Niue - Mr. Jim Kurz
USA - Honorable Chris Cannon, Member of Congress, Mr.Todd Thorpe,
Legislaticve Assistant to Cong. Cannon

Apologies:

Czech Republic- Mr. Antonin Zita
Jamaica- Mrs. Camella Rhone
Libya- Mr. Mohamed Saad
APT - Mr John Budden
ITU - Mr. Robert Shaw
OECD- Dr. Sam Paltridge

Agenda Item 1 - Welcome

The Chairman welcomed the representatives of the attending Members and
acknowledged each attending Member's accredited representative. He also welcomed the
representatives of the Russian Federation who were attending for the first time.

The Chairman noted that, consistent with the Committee's discussion in August at its
meeting in Santiago, the public and press were present to hear the report of Mr. Michael
Roberts, President and Chief Executive Officer of ICANN and for the portion of the
meeting related to the dialogue between the Committee and representatives of the ccTLD
community.

The Chairman noted his thanks to the staff of ICANN for their efforts in organizing the
meeting in Los Angeles.

The Chairman then gave a brief overview of the Agenda, including outlining the
timetable for the day's proceedings. He noted the full agenda and the need to maintain the
schedule in order to reach the ICANN open meeting with the public in a timely manner
and provide the Committee's report to that meeting.

Agenda Item 2 - - Briefing from Mike Roberts, Interim President and CEO of ICANN, (public)

1. ICANN negotiations with the U.S. Department of Commerce and Network Solutions, Inc. since the prior meeting of the GAC related to domain name matters.
2. ICANN Funding matters
3. ICANN Meeting Agenda
4. Pending Matters

Mr. Roberts reported that the United States Department of Commerce, ICANN and Network Solutions, Inc. negotiated and reached preliminary understandings as reflected in draft agreements published on the ICANN website (www.ICANN.org) related to the introduction of competition into the domain name registration system and the roles and actions of the Department of Commerce, Network Solutions, ICANN and other interested parties. He said that the Board of Directors, after the public comment period, will to consider the agreements during its meeting on November 4th.

Mr. Roberts then reported that the first annual meeting of the Board of Directors would occur on November 4th and, among other matters, nine newly elected members appointed by the address supporting organization, the protocol supporting organization, and the domain name supporting organization would be attending the board meeting for the first time.

Mr. Roberts then called the attention of Committee members to the charter of the Ad Hoc Group which was also posted on the ICANN website. He said that the purpose of the group is to assist in identifying emerging trends and issues of interest to the various members of the address supporting community.

He reported that Mr. Louis Touton had been named Vice President, General Counsel and Secretary of ICANN effective November 1st.

Mr. Roberts reviewed the status of the Uniform Dispute Resolution Policy (UDRP) which also appears on the ICANN website.

In response to a question, Mr. Roberts said that the UDRP includes aspects that pertain to all accredited registrars, the registry, and generic top level domain registrations (names registered in the .com, .org and .net domains). He confirmed, however, that any ccTLD registry and registrars were welcome to adopt if they find it suitable and appropriate to their structures. He said that one ccTLD has already done so.

Mr. Roberts then reviewed the development of the ICANN funding model and the draft Report of the ICANN Task Force on Funding (TFF) which was distributed to the members. He said that, consistent with discussions in May and August with interested members of the addressing community and the registry community, the interested parties reviewed the ICANN expense and revenue structure and developed a recommendation for funding.

He said that the TFF recommends that, for the foreseeable future, the basic funding needs of ICANN be supported by the IP address registries and the domain name registries and registrars.

Fundamental principles included the fact that all ICANN constituents benefiting from ICANN's co-ordination and pro-competition efforts should contribute to its budget. In addition, not-for-profit and for-profit constituents should be treated equally, as both types of bodies need to pay their dues, on the 'user-pays' principle. He said that its important to assure diverse resources and balance in participation.

He then reviewed the structure and percent of the pro-rata share of the ICANN budget to be recovered from each constituency.

Mr. Roberts then reviewed in detail the financial position of ICANN and the present structure of loans and grants and contributors.

In response to a question from the Chairman, Mr. Roberts confirmed that legal counsel had been provided to date at a heavily discounted rate and that the present budget is built on assumptions of the market rate, but does not anticipate litigation costs.

Mr. Roberts then reviewed in detail the financial position of ICANN for 12 months since incorporation. He reported that ICANN has realized approximately $895,000 of income and incurred $2.2 million of expenses. The funding model was based on an initial annual budget of approximately $4.2 million. Mr. Roberts also reviewed sources of grants and loans to meet ICANN obligations to date.

He said that, in order to pay bills to service providers and to continue operations, ICANN had approached members of international and American industry organizations and had secured $825,000 in bridge loan financing of the targeted $2 million required by December, 1999.

Mr. Roberts then reviewed the agenda of the ICANN Board for the upcoming public meetings and noted that, consistent with past practice, the agendas for the meetings were posted on the ICANN website together with related policy documents and he encouraged GAC members to visit the site for current information and background related to ICANN.

Agenda Item 3-Discussion of Draft Agreements between ICANN, U.S. Department

of Commerce and Network solutions, Inc.

The US representative spoke to the attending GAC members on the agreements between ICANN, the US Department of Commerce and Network Solutions, Inc. (NSI) related to domain name matters in the generic TLDs of .com, .net and .org.

The US representative reviewed material covered under the agreements, including the effect of negotiations related to NSI's obligation to provide part of the funding for ICANN; access to the WHOIS database; bulk access and related fees; and the InterNIC website.

In summary, the US representative said that the agreements, while not perfect, do not contain any apparent flaws and they assure competition related to the IP addressing and naming process while allowing ICANN to proceed with its technical mission.

There was discussion on provisions related to competition, jurisdiction, licensing conditions, privacy, intellectual property, and service level requirements. It was noted that there are concerns related to the balance of the interests of the intellectual property community and consumer protection authorities, namely that entities are also dealing with a legacy of issues related to privacy and it continues to be important to find the balance that enables individuals to have greater privacy while consumers to have greater information about entities selling goods and services.

It was noted that, under the agreements, in the limited circumstance that ICANN fails to perform its duties under its agreement with NSI and the agreement with NSI is terminated or in the event that the ICANN process fails to such an extent that the organization is no longer able to perform its functions, responsibilities for direct oversight of NSI would revert to the US Department of Commerce. The US representative underscored that the United States would continue to consult with the global community during any such circumstances.

It was affirmed by the US representative that this provision of the agreements is only intended to protect the security and stability of the Internet in the event of a catastrophic breakdown of the process and that the United States is committed to the transition of Internet name and address functions to the global private sector.

Agenda Item 4 - Discussion on Principles for Delegation and Redelegation of ccTLDs

There was discussion related to the identification of models for the relationship and management of the ccTLD registries and noted the variety of differing situations among governments, administrators, operators and ICANN's role.

Three key relationships in the ccTLD structure were identified, namely ICANN, the

government or public authority as recognized in international fora, and the ccTLD delegee (which holds the delegation of authority for the management of the ccTLD).

It was noted that some ccTLDs may wish to work closely with a sovereign and others do not. The Chair encouraged Members to engage in a dialog with their ccTLD administrators and other interested parties in their capitols on these matters and come back to share their views as part of a process of developing models. It was agreed that it would be helpful to have a dialogue with the ccTLD community about these issues and, if possible, develop common recommendations for submission to the ICANN board.

It was noted that models are likely to take different forms taking into account different local circumstances and considerations. The models are intended to offer guidance but are not intended to be binding.

It was agreed that the GAC does not intend to release a document on this day because the thinking on these matters is not complete and the GAC has not had an opportunity for full consideration or to discuss concepts with their ccTLD administrators and operators. It was agreed that it is a challenge to be sensitive to the sovereignty issue while balancing the need to meet technical standards.

It was noted that models can be particularly helpful where no contract presently exists between a ccTLD provider and the relevant government or public authority. In this case, the parties in dispute currently look to RFC 1591 as the basis of the relationship and the responsibilities of the parties.

While not unanimously held, it was generally agreed that it is the intention of the members to minimize ICANN's liability for its judgements and that ICANN should take action on prescription of the sovereign or public authority. The overall intention, however, would be to minimize potential litigation for ICANN, forge working communications between all parties, and a more satisfactory situation with respect to ccTLD redelegation issues.

It was confirmed that the GAC is advisory in nature and does not tell ICANN what to do. Given that ccTLD matters often involve issues related to sovereignty, ICANN may look to the GAC for guidance in this area. It is hoped that the GAC will engage in a dialog and joint effort with the ccTLD community related to the development of recommendations for ICANN.

The Chairman then invited members of the ccTLD community and the public to enter the meeting.

As the appointed representatives of the ccTLD constituency of the DNSO Names Council, Mr. Dennis Jennings, Mr. Nigel Roberts and Mr. Patricio Poblete spoke as the representatives of the ccTLD community.

It was noted that the views expressed by the Mr Jennings, Mr Roberts and Mr Poblete in

the course of the meeting were their own and were not intended to represent any official policy statement of the entire ccTLD community.

It was noted that the ccTLD community is diverse and there are many views about the appropriate role of governments, many different arrangements between ccTLD operators and governments, and vast differences with respect to the structure and operation of individual ccTLDs. It was also recognised that governments also approach ccTLD matters in a variety of ways and both are important. It was agreed that good communication among the parties is very important.

The ccTLD representatives stated that the ccTLD community is drafting a code of "best practices" and it will include articulation of an "open" and "closed" policy. Some ccTLDs wish to address the need to have a contract with some party, possibly ICANN, to maintain root zone functions and to clarify who runs the root and who is in charge.

There was discussion on the need for clear principles regarding redelegation. It was expressed that the ccTLD community wishes to undertake this collectively and not defer to ICANN or governments with respect to this matter. In this regard, the ccTLD community appears to feel that this form of industry self-regulation is appropriate at the present time.

The ccTLD community recognizes that there are a variety of approaches possible between ICANN, the ccTLD registries/administrators and the governments or public authorities as recognized in international fora.

It was stated that the ccTLD community is uncomfortable with delegation of ccTLDs to nations, even to organized and democratic nations (for example, countries in the EU) and expressed that it is still unclear what the appropriate relationship between the ccTLD and the government should be. It was stated that the relationship with ICANN is under discussion. ccTLD community was uncomfortable with binding agreements with ICANN at the present, however, because ICANN is incorporated in California and feel that the relation to the US government in the form of the US Department of Commerce is unclear. The ccTLDs want ICANN to succeed but need more clarity on the scope of its mission.

It was agreed that there are some common issues of concern to the GAC and to the ccTLDs and it is appropriate to set up a structure to discuss these matters.

The view was also put forward that some of the ccTLDs have performed very well and provided good service with little legal backing or claim and that the local Internet community that they serve is happy. It was noted that the prevailing sentiment of the ccTLD community is "its not broken, so there is no need to fix it." Nevertheless, it was stated that the ccTLD community was open to discussion of the issue, but it was stressed that no party should meddle and create unforeseen problems.

It was noted that one concern for the GAC is to find a timely resolution to the question of performance and possible redelegation as some governments and public authorities

represent the interests of their citizens in parts of the world where there are presently difficulties with the performance of some of the ccTLDs.

The floor was then opened to questions and comments. Summarised questions and answers included:

Q. (from the representative of the US) What does the ccTLD community view as the difference between a generic and an "open" TLD where the "open" ccTLD accepts names internationally without restriction or relationship to the country of the ccTLD.

A. (Mr. Jennings) The manager of a ccTLD is there to serve the local Internet community for the country or territory for which the county code was assigned. The generic TLDs serve the whole Internet community. The generic TLD is more the result of accident than design. The ccTLD is focused on the local Internet community and is rooted in the legal framework of that country. It is recognised there are a wide variety of models, for example Ireland and the UK. Ireland requires a real and substantive connection to Ireland as a precondition of registration there, while the UK is an open system and permits anyone to register there although it is largely used by people who are trading there. The motivation is the same, however, and both serve the local Internet community. Some ccTLDs are, in effect, generic TLDs.

Q. (from the representative of the US) How can one distinguish between the two? The wording of RFC 1591 speaks to the requirement that the ccTLDs serve the local and "the global Internet community"

A. (Mr Jennings) The ccTLD generally operates for the financial benefit of the local Internet community so that some or all of a ccTLD's profits go to the local Internet community. All registries serve the global Internet community in some manner because they are a place where names are put and where mapping occurs between names and addresses which assists in moving information and communication. It is the use to which names in registries are put that raises questions not the fact of the existence of the registry.

Q. (from representative of Niue) There are a wide range of models for ccTLD registries and most serve the local Internet community's interest. How would self-regulation address this, especially where service is poor?

A. (Mr. Jennings) It is too soon to tell. Answers to this and other questions have yet to be formulated. The ccTLD community recognizes that this is an important issue. One of the key roles of governments is to keep the ccTLD community on its toes. I am happy to take the questions to the ccTLD community and to formulate a proper response - I have only been expressing my own view on the matters raised.

Q. (observation from Chairman of the GAC) There is an interest in jointly addressing and solving problems to the maximum extent possible.

A. (Mr. Poblete) The members of the ccTLD community also believe that there is a need to protect the ccTLD managers from arbitrary action by government authorities and to assure that due process is followed to maintain the service to the local Internet community.

Q. (Observation from Mr. Patrick O'Brien, representative of Domainz) In New Zealand they are very pro-competitive and wish to make sure that checks and balances are in place. In addition .NZ domain names are sold offshore and the government there employs a light-handed regulatory scheme to encourage economic growth. A dialog is good and it is important to put in place the right structure for your individual countries and consumers there, but not to presume to define a single structure for all.

Q. (observation from representative of a Netspeed.com) I would suggest that the GAC consider the value of an international WHOIS database and assist with the development of a unicode to permit the Internet to go where you wish it to go.

A(i). (Chairman of the GAC) These matters have been raised in the GAC on earlier occasions and have a place for future considerations.

A(ii). (representative of the EU) In 1997 the view was that the DNS should be able to accommodate a wide range of characters and multi-language interests.

Q. (from Mr Tony Rutkowski, representative of the Internet Rights Coalition) ICANN should provide for a process for others to contribute to the GAC; issues of international law are involved because the Internet is a public resource and telecom law is not helpful. There are issues related to sovereignty to consider and the Internet is a network of private networks and private resources and the view that they are subject to sovereignty is inappropriate.

A. (Chairman of the GAC) The communique which follows each GAC meeting is published, and a report is given in the ICANN public meeting. Further, questions, comments and input from the floor at these meetings are welcomed, as indeed they are at any time.

Q. (Observation from Mr Rob Hall, representative of the Canadian ccTLD registry) I am pleased with the tone of the open portions of the GAC meeting and encourage there to be more dialog in the future to avoid a hardening of suspicion and mistrust. The ccTLD community wishes to work closely with the governments and public to find consensus. I am, however, worried that miscommunication could develop.

A. (the Chairman of the GAC) The GAC is challenged to strike a balance between the procedures of governments or public authorities as recognized in international fora for dealing with one another and avoiding hardening national positions. The GAC is trying to find more opportunities for open meetings and exchanges. The GAC representatives are encouraged to go back to their capitols and communicate with the interested parties to discuss issues and arrive at consensus. If appropriate, I would encourage representatives to have the GAC documents translated into other languages and consult within their local communities.

Comments and observations from the GAC included:

The concern expressed by Mr Poblete relates the concern for governments and the global Internet community for clarity so that all parties can know what the standards are and what the process for challenging poor performance is. It was noted that if a jurisdiction by jurisdiction approach is taken then there is fragmentation and an atomistic approach and the absence of clear and uniform due process may not serve anyone's interests.

The view was put forward that while self-regulation is the preferred model, it is not an open-ended matter for discussion and indecision, and that some structure for grievance and resolution needs to be devised. The representatives were urged to set timelines for themselves related to the operation and policies of the ccTLDs. It was noted it is important to get it right but it is urgent to get it done.

It was considered that there appeared to be a growing consensus among the OECD countries and others in addition to ICANN for co-regulation among governments and business and they have to work together, as neither can act effectively if acting alone. Many important and pressing matters are on the table and have been for some time and governments, at the urging of their citizens, are being asked to seek a solution. The ccTLD community was urged to set a timeline and adopt guidelines which they themselves set for the operation of ccTLDs, and encouraged to establish a dialog with their home country governments and begin to work together to establish communications and connections.

Another view was put forward that there is a need to address the situation where the ccTLD is not doing well and is not making itself available to the consumer protection authority or to any party in the territory the ccTLD is supposed to be serving. In this case

it is not clear where to turn to resolve matters. If the administrator is supposed to act in the public trust and to benefit the local Internet community it would be appropriate to identify a quick, clear and fair process to challenge poor performance.

The members of the ccTLD community and the public then left the meeting.

The GAC agreed that the session with the ccTLD community was constructive, and that the GAC wishes to encourage the establishment of a process for further dialog.

It was suggested that given that the ccTLD community is going to document "best practices", it may be helpful for the GAC to prepare a document of "principles" to assist the process leaving the details to the experts in the ccTLD community itself.

GAC Members were encouraged to continue with the development of a document and in their home capitols to develop consensus.

It was agreed that assurance of where a registry is physically located is significant because it provides assurance that jurisdiction may be exercised by relevant law enforcement authorities to protect consumers in the event of fraud or injury, and that such consumer confidence is not inconsistent with serving the global community. It is in the interest of the global community of consumers to know with whom one is dealing and under what law.

However, it was noted that ICANN cannot solve the consumer protection matter and it is not its role to do that. Although access to data and a dispute resolution process do not solve the problem, it does enable law enforcement authorities in a country to do something about a matter if it chooses. Certain data must be accurate and up to date to facilitate individual governments and public authorities to act on problems on behalf of its citizens or consumers. It was noted that there is no suggestion that ICANN has any authority to enforce any criminal law of any country.

There is a shared commitment to the development of practices related to ccTLDs (such as ensuring the availability of registration information) that could assist governments in their protection of consumers. It was noted that this would benefit interests of governments and public authorities, and their citizens, and of ICANN.

It was noted that there may be a need for developing three models - one for new regimes, one for existing regimes where redelegation may be warranted, and one for existing, stable arrangements.

It was noted that there may also be a need for a model where there is an agreement between a sovereign and a ccTLD delegee and one in which there is no such agreement. There must be a plausible record to rely on if, in the absence of an agreement between the sovereign and a ccTLD delegee, the matter of the performance of the ccTLD is presented by the local Internet community to ICANN for redelegation. It was noted that if there is no contract or agreement between the sovereign and a ccTLD delegee, then RFC 1591 is

the reference document and there must be a showing of evidence that the delegee is not serving the interests of the local and global Internet community.

It was noted that consideration should be given to careful wording to avoid rulemaking.

It was noted that there appeared to be an interest in working with the ccTLD community and this discussion will continue. It was further noted that real philosophical differences exist among governments or public authority as recognized in international fora and among members of the ccTLD community but there are also common concerns where models or guidance and clarity of basic principles may be helpful.

Members were encouraged to consult in their own capitols in the next several weeks and to try to engage with their ccTLD providers to further dialog if possible.

It was the view of the members that it would be useful to put some ideas on paper; to engage their own communities in their capitols; to develop comments and responses; and then to engage further with the ccTLD community.

Agenda Item 5-Next Meeting

There was discussion on the date and place for the next meeting of the GAC. Interest was expressed in meeting before March 2000 in order to progress issues in preparation for the next round of ICANN meetings.

Suggestions included Sydney, Australia early in 2000. Consistent with the practice of meeting near the time of the ICANN Board meetings, a meeting may also be held in Africa at the time of the next ICANN board meeting in March 2000.

It was agreed that details will be confirmed closer to the time. In the meantime, the GAC secretariat would investigate possibilities to set a schedule for the next meeting.

Agenda Item 6 - Any Other Business

No other business was raised.

Agenda Item 7 - Communique

The GAC members then reviewed and agreed to the terms of the Communique to be published following the meeting. The agreed text has been posted on the Web at http://www.noie.gov.au/gac/gac4com.htm

There being no further business, the meeting of the GAC was adjourned at 6:00 p.m. and members were encouraged to proceed to the open meeting and dialogue with interested members of the Internet community.

Agenda Item 7- Open Meeting - Dialogue with interested members of the Internet community

The Chairman introduced himself, and briefly overviewed the Communique from the GAC. The Chairman then opened the discussion for questions from interested parties.

Note * - The Open portion of the meeting was Webcast and has been posted at the multimedia archive produced by the Berkman Center. The Open portion of the GAC meeting may be viewed in full at http://cyber.law.harvard.edu/icann/la/archive

Summarised questions and answers from the Open Meeting included:

Q. Perhaps GAC should rethink its position regarding the citizenship requirement for geographic diversity on the ICANN Board of Directors. Why should a representative of a company have to be a citizen of the country to be given weight by the GAC. Give some rationale as to why there is a restriction to citizenship.

A. Let me take it first as an observation.I would be happy to bring this observation back to the GAC. Perhaps I could make an observation as Chair. I recall the process that I watched when the question of 'citizenship vs residency'came up. There were two main issues. The first was that the Europeans were saying 'citizenhsip' because they didn't want their interests represented by Americans, and the Americans were saying 'citizenship' because there were too many Europeans working in American companies in Europe. These appeared to be reactions to positions put to them various industry groups, and are not necessarily government positions. The second issue is one of certainty. It is easier to have certainty around citizenship than residency. That is my recollection as Chair. A lot of unanimity around the table on this issue. As chair, I had a neutral position. Particularly, in the modern business environment, people can be resident in more than one country at the same time because do business and live in? I will take your observation on board for discussion at the next meeting

Q. Which countries represented today at the meeting?

A. Argentina, Australia, Austria, Brazil, Canada, Chile, China, Denmark, EuropeanUnion, France, the Gambia, Germany, Hong Kong China, Ireland, Italy, Japan, Korea, Malaysia, Netherlands, New Zealand, Niue, Norway, the Russian Federation, Singapore, Spain, Sweden, Switzerland, Taiwan, United Kingdom, USA, and WIPO. We

also received Apologies from APT, Czech Republic, Jamaica, Libya, ITU, OECD.

Q. Did you discuss data escrow for domain name holders in the gTLD and ccTLD spaces? If you did discuss, did the issue of privacy come up, and what were the tentative conclusions?

A. We recognize that there are issues around security for integrity of a system and that escrow and mirroring play an important part, and that there are also issues around privacy. We talked about these issues generally and haven't yet come to any conclusion, just acknowledging that these are issues. We utilised a piece of paper with some points on it, but it is in no way a final document or represents a formal position - it is just a text with some loose concepts on it.

Q. Do you believe that GAC has the authority to require that all of users' data be escrowed to assure stability of Internet? Do nations have sovereignty over their ccTLDs?

A. The GAC does not have any authority to demand anything of anybody. If the question is about whether there is authority for anything to be demanded, consideration has to be given to the sovereign power of governments and public authorities as it relates to things in relation to their own ccTLDs. This is a very fluid area, and there was fluid discussion today. There is a consciousness that there need to be principles for making this system work, and that these principles need to work in an environment where it is international but where there are also issues of national sovereignty. With regard to your question as to whether governments have sovereignty over their ccTLDs, in Berlin and Santiago there was a statement made by the GAC putting down its formally considered position that ultimately authority does rest with the relevant government or public authority, but that is just a statement of legal principle. What we are really concerned about is talking through the issues and having discussions with interested parties about practicalities and making things work. It is note meant to be a scary statement, it's just a statement of high legal principle. We are concerned about getting down to the next level, and engaging with the ccTLD community to make process work smoothly. This is by no means putting up a war flag - that's not what we want to do.

Q. I would like to come back to the so-called NSI agreements, you say "takes note of." Do you expect that the GAC will follow up on these issues in any way?

A. I don't see it being formally on the Agenda for the GAC. Whilst it says that we 'take note', this is in part because many of the GAC members are somewhat new to the debate or are still considering issues, so we were not in a position to say, with thirty-something people present, that we all had a common view. It is simply neutral wording because we did not have all participants having the same level of 'absorption' of the issues. The NSI/ICANN agreements would probably be in the mind of people considering issues

related to the TLDs because they raise certain issues. It will continue to be a topic for discussion, but not in the sense that it is formally on the GAC Agenda.

The Open portion of the GAC meeting was webcast and may be viewed in full at http://cyber.law.harvard.edu/icann/la/archive/.

MEETING CLOSED 7:30 p.m.