

GAC MEETINGS

Meeting 7: Marina del Rey - 14 November 2000

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

SEVENTH MEETING OF THE GOVERNMENT ADVISORY COMMITTEE

11-15 NOVEMBER 2000

Promenade Room, Marina Beach Marriott Hotel

Marina del Rey, California

United States of America

EXECUTIVE MINUTES

Members Present:

Member	Representative	Adviser	Observer
Chair	Dr. Paul Twomey		
Argentina	Mr. Gustavo Fazzari		
Australia	Ms. Michelle Scott	Ms. Nikki Vajrabukka	
Austria	Mr. Herbert Vitzthum		
Azerbaijan	Mr. Aflatun Mamedov		
Brazil	Mr. Vicente Landim de Macedo Filho	Mr. Jose Alexandre Novaes Bicalho	Mrs. Vanda Scartezini

Canada	Mr. Len St Aubin	Mr. Drew Olsen	
Chile	Mr. Andres Culagovski		
China	Mr. Chen Yin	Ms. Ann Marie Plubell	Mr. Jun Cai Wang
Denmark	Ms. Heidi Bech Jensen	Mr. Bent Blinkenberg Madsen	
France	Mr. Alain le Gourriec	Ms Isabelle Lafontaine	
Finland	Ms. Laura Vilkonnen		
Gambia	Mr. Lamin Sanneh	Mr. Adama Deen	
Germany	Mr. Michael Leibrandt		
Ireland	Mr. Joe Gallagher		
Italy	Mr. Stefano Trumpy		
Japan	Ms. Kaori Ito	Mr. Yo Takahashi	
Korea	Mr. Chul-Jeung Hwang		Mr. Byung-Kyu Kim
Lao P.D.R.	Dr. Maydom Chanthasinh	Mr. Pho Muangnalad	
Malaysia	Mr. Mohamed Sharil Tarmizi	Mr. Ahmed Razif Ramli	
Netherlands	Mr. Klaas Bouma		
Niue	Mr. Richard Hipa	Mr. Gerald McClurg	Mr. Richard Duncan

Norway	Ms. Annebeth Lange	Mr. Tomas Myrbostad	
Romania	Dr. Eugenie Staicut		
Singapore	Mr. Goh Seow Hiong		
Spain	Mr. Alberto Rodriguez Raposo	Mr. Javier Cos	Mr. Jose Luis Castro Mr. Angel Garcia Castillejo
Sweden	Ms. Lena Carlsson	Mr. Henrik Nilsson	
Switzerland	Mr. Francois Maurer		
South Africa	Mr Andile Ngcaba		
Taiwan	Dr. Kai Sheng Kao	Mr. William Lin	Dr. Ching Fu Kuo
Thailand	Dr. Hugh Thaweesak Koanantakool		
United Arab Emirates	Mr. Abdullah A. Hashim	Mr. Nasser Sulaiman	
United Kingdom	Mr. Adrian Pinder		Mr. Larry Franklin
United States of America	Ms. Karen Rose	Mr. Jeffrey E.M. Joyner	Ms. Jennifer Lucas
European Union	Mr. Christopher Wilkinson	Mr. Richard Delmas	
International Telecommunications Union	Mr. Robert Shaw		
World Intellectual Property Organization	Dr. Francis Gurry		

Apologies:

Member	Representative	Adviser	Observer
Hong Kong, China	Mr. K.H. Lau		
Libya	Mr. Mohamed A. Saad Ltayef		
New Zealand	Mr. Frank March		
Portugal	Mr. Pedro Veiga		
Asia-Pacific Telecommunity	Mr. John Budden		
Organization for Economic Cooperation and Development	Dr. Sam Paltridge		

1. Welcome

The Chair welcomed representatives of member governments, multinational government and treaty organizations, and distinct economies as recognized in international fora and extended a special welcome to those attending for the first time. In his opening remarks, the Chair restated the role of the Governmental Advisory Committee (GAC). He noted that the GAC was not a formal decision making arm of ICANN. Rather, the GAC's role is to consider and tender advice of government to ICANN, particularly on matters where

an interaction exists between the Corporation's policies and various laws, and international arrangements.

The Chair noted the traditional working arrangements of the GAC in that major segments of the GAC meeting are conducted privately in order to encourage full and open discussion amongst GAC participants. Segments of the meeting where the board of directors and outside parties were present would be open to the public so that dialogue could be encouraged with the ICANN community.

The Chair then gave a brief overview of the Agenda, including outlining the timetable for the day's proceedings.

2 New Generic Top Level Domains

There was discussion on issues relating to the addition of new generic top level domains (gTLDs). It was agreed that the GAC would issue a written opinion on this matter to the ICANN Board. The text of the Opinion has been posted on the Internet at <http://www.noie.gov.au/projects/international/DNS/gac/tld.htm>

The Chair opened the discussion and over the course of several days the document was formulated. The following is a general summary of the discussions pertaining to sections of the resulting GAC document "Opinion of the ICANN GAC on New Generic Top Level Domains." (the Opinion)

Discussion of GAC Opinion Section 1: General Principles

With respect to the "General Principles" section of the Opinion, discussion on this section was focussed largely on Section 1.5, concerning competition and safeguards to protect consumer interest.

It was agreed that the overall principle of the paragraph should be to recognise the applicability of competition policy and the need to protect users' interests. This protection could be accomplished through various mechanisms.

To this end, the representatives developed and agreed on language that would indicate the overall applicability of competition policy and the notion that the new gTLDs' policies should provide adequate safeguards to protect users. Possible safeguard mechanisms would then be listed.

This concept was accepted by the GAC and incorporated into the text by reference to a number of possible mechanisms or models that could assist in providing safeguards for users.

Discussion of GAC Opinion Section 2: Agreements Between ICANN and new gTLDs

It was agreed that the text of this section be consistent with previous GAC statements on these issues. GAC members also considered that it should advise ICANN that in the context of international intergovernmental organisations, activities such as the acceptance of the responsibility to administer a TLD or similar resources, may require approval by the organisations' members.

Discussion of GAC Opinion Section 3: Other Public Policy Considerations

Geographic Names

There was discussion around the issue of geographic names as new TLDs and second level domains, and also as to whether it would be prudent for ICANN to approve TLDs that correspond to geographic areas. It was noted that some place names in certain languages could correspond to common words in other languages. Questions about fair use of such names, as well as if enforceable rights exist in place names, were also raised. It was also noted that cultural and ethnic names also present sensitivities.

Notwithstanding the sensitivity to geographic issues, it was noted that it would be difficult to expect ICANN to use standards for selection of new TLDs that were not part of its request for proposals or to advise ICANN to adopt policies without further considering their implications.

It was suggested as a broad concept for the overall Opinion, including the "Public Policy Considerations" section, that the GAC could offer guidance addressing overall policy principles, rather than approval or disapproval of specific applications or categories of applications.

It was noted that there was a considerable range of opinion and suggestions on the issue of geographic names and codes and that these were indeed very complex issues. WIPO's ongoing work in the area of geographical indications was recalled, and it was noted that the results of that work would better inform current discussions.

The Chair noted that this issue deserved further and fuller consideration, suggesting that perhaps interested GAC members with an interest in the matter develop working papers as input for further discussion. The Chair also noted that interested parties should participate in the work of the WIPO on geographic issues (see Section 2 above.)

It was agreed among members that, in this Opinion, the GAC should reaffirm its position set forth in "Principles for Delegation and Administration of Country Code Top Level Domains" (23 February 2000) and in the Cairo GAC Communique (8 March 2000), that in the creation of new generic TLDs, ICANN should avoid well-known and famous country, territory, or place names; well-known and famous country, territory, or regional language or people descriptions; or ISO 639 codes from representation of languages unless in agreement with the relevant governments or public authorities.

It was agreed that discussion on geographic and geo-political issues would be continued in subsequent meetings of the GAC.

Multilingual Domain Names

There was discussion on issues in relation to multilingual domain names. The GAC noted its support for the expansion of multilingual characters as domain names, whilst recognising that such a system, however, gives rise to sensitivities about how names and words with special cultural significance might be treated. Numerous issues were discussed among the members including the fact that various languages are spoken by considerable populations in many different countries and by different cultures around the world, and that several systems of multilingual domain names were in the process of being tested and implemented.

It was agreed that the text of the Opinion would recognise standardisation work being done by the Internet Engineering Task Force (IETF) on multilingual domain names and encourage that the work should be advanced with regard for maintenance of Internet stability. Further, it was recognized that new TLDs should be encouraged to participate in such work.

It was further agreed that the Opinion would recommend that ICANN should encourage participation by governments and distinct economies as recognized in international fora in the development of policy with respect to multilingual policies concerning domain names using non ASCII character sets and/or letters that apply to a relevant country's culture.

Applicable Law, International Conventions, and Work Underway in Intergovernmental Organizations

It was agreed that there was a need for ICANN to take into account applicable law and international conventions as well as work undertaken by international intergovernmental organizations such as the ITU and WIPO. It was agreed by the Members that this language would be included in the Opinion.

WIPO's Second Domain Name Process

It was noted that the WIPO process addressing in the area of bad faith, abusive, misleading or unfair use of personal names, International Non-proprietary Names (INNs) for Pharmaceutical Substances, names of international intergovernmental organizations, geographical indications, indicators of source of geographical terms and tradenames was ongoing and likely to conclude after the implementation of the new TLDs.

The GAC agreed to note in the text of the Opinion that WIPO member states have asked WIPO to consider and make recommendations in these areas. Since the WIPO report could lead to the development of policies in these areas, it was felt that for the benefit of users, registration policies for new gTLDs should make reference to the WIPO Second

Domain Name Process and also to the possibility that ICANN policies might be adopted that may affect these types of registrations. Should registration policies initially implemented by new TLDs allow for registrations of names in any of these categories, registrants should be made aware that the adoption of such policies may have some impact on their registrations.

Discussion of GAC Opinion Section 4: Processes

Recognising that additional work would likely be required to complete the arrangements with selected TLD registries, the GAC broadly considered that ICANN should continue its process of consultation with the global Internet community after the TLD selections were made. It was agreed that such a statement would be included in the GAC Opinion.

3 Discussion of Issues Relating to the Delegation and Management of ccTLDs

Representatives of various Members reported on progress made within their administrations to align management of their corresponding ccTLDs with the provisions of the GAC document "Principles for the Delegation and Administration of Country Code Top Level Domains" (the GAC Principles). It was noted that a resolution had been made by the Council of the European Union encouraging EU members to implement the GAC Principles.

To encourage information and experience sharing, it was proposed that space could be devoted on the GAC website for posting of information by GAC members of information and materials related to their activities to implement the GAC Principles. The meeting agreed the development of a central database/clearinghouse for shared progress reports and sample documents would be useful.

There was discussion regarding the ability of a government to implement the GAC Principles, especially in situations where the current ccTLD administrator resides outside of the country and does not have the support of the relevant government. It was agreed that the GAC would request ICANN to provide information and advice concerning the process and associated timing issues in relation to the execution of requests for redelegation of ccTLDs, and that this request would be included in the GAC communique for the meeting.

The representative of WIPO was invited to speak, and he gave an informative status report on the current work WIPO to address intellectual property issues as they relate to domain names. The representative noted the receipt of two letters from the Australian Minister for Communications, IT and the Arts on behalf of a number of WIPO members asking the organisation to continue work in this area. The first letter received by WIPO (located at <http://wipo2.wipo.int/process2/rfc/letter2.html>) requested that WIPO advance

work in areas identified in the Final Report of the World Intellectual Property Organization (WIPO) Internet domain name process (*The Management of Internet Names and Addresses: Intellectual Property Issues*) as requiring further study. These issues include studying issues raised by the bad faith, abusive, misleading and unfair use of personal names; international nonproprietary names (INN) for pharmaceutical substances; names of international intergovernmental organizations; geographical indications, geographical terms, or indications of source; and tradenames.

The representative for WIPO noted that in the intellectual property sphere, geographic indications have a specific meaning and are associated with a product or service as an indicator of source. These types of geographic indications receive special protection under the World Trade Organization Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement.

The GAC indicated an interest in work related to geographic names and there was discussion relating to the potential for adoption of a policy to address the registration of geographical names as second level domains, including the names of countries.

The Chair noted that matters related to geographic names are, indeed, complicated issues. The Chair encouraged members with an interest in work related to geographical terms, especially those involved in domain name disputes related to geographic names, to participate in the ongoing work of WIPO in this area (information located at <http://wipo2.wipo.int/process2/>). The Chair advised that the discussion of this issue would be better informed by the results of the WIPO's work in this area. It was noted that the publication of the forthcoming WIPO Interim Report was expected in February, 2001.

The WIPO representative noted that the second letter from WIPO members requested that WIPO develop voluntary guidelines intended to assist the administrators of ccTLDs to curb abusive and bad faith registration of protected names and to resolve related disputes in those domains (<http://wipo2.wipo.int/process2/rfc/letter1.html>). It was noted that at present, 14 ccTLDs had incorporated the ICANN Uniform Domain Name Dispute Resolution Policy (UDRP) as their dispute procedure, and that many had included mechanisms that went beyond that found in the UDRP. It was also noted that WIPO was planning a conference on ccTLD issues on February 20, 2001 in Geneva.

4. Briefing From President/CEO of ICANN, Including Session With the ICANN Board of Directors (Open Session)

The GAC met in an open session with members of the ICANN Board of Directors. Mike Roberts, President and Chief Executive Officer outlined the areas to which he would speak:

- 1) The ICANN Los Angeles Agenda

a. Introduction of New Top Level Domains

b. Structure of At Large Membership Study

2. Financial Matters

a. FY 1999-2000 Audited Financial Report

b. FY1999-2000 ccTLD Payments

c. Staff paper on revisions to Domain Name Registry/Registrar Payments to ICANN

3. Progress on ccTLD Agreements

a. Draft of ICANN Letter to Governments

b. Status of Drafting of ccTLD Agreements

4. Other Issues

a. Multilingual Domain Names

1.a. Mr. Roberts noted that the majority of the ICANN open meeting would be devoted to the consideration of applications for new TLDs. It was reported that ICANN received some 47 applications for new TLDs which were posted on ICANN's website. Prior to its receipt of the applications, ICANN selected three teams of independent outside experts in the areas of technology, business and finance, and law to assist it in its review of the TLD applications. These teams worked with the ICANN staff to produce an evaluation report on the applications received. Mr. Roberts said that staff evaluation report was posted on the ICANN website along with an on-line forum to facilitate public comments on the applications and evaluation report (posted at <http://www.icann.org/tlds/report/>).

1.b. It was noted that the ICANN Board adopted a set of resolutions at the Yokohama meeting that called for a comprehensive study of the concept, structure and processes relating to the "At Large" membership of ICANN after the completion of the At Large election process. The ICANN board of directors would determine at this meeting how the At Large membership study would progress.

2.a Mr. Roberts indicated that ICANN released its report of its independent auditors, KPMG, LLP, on its financial statements for the fiscal year ending June 30, 2000. The corporation received a favorable audit opinion from KPMG. It was also noted that ICANN received tax-exempt status from the United States Internal Revenue Service. The report is posted at <http://www.icann.org/financials/financial-report-fye-30jun00.htm>.

2.b. Mr. Roberts noted that ICANN's budget was significantly short in the area of contributions from ccTLD registries due to non-payments. For fiscal year ending June, 30 2000, ICANN had budgeted \$1.4 million to be contributed by ccTLD registries. Less than half of that, namely \$675,000, was actually received by ICANN.

2.c. Mr. Roberts said that the ICANN staff had released a working paper on an ICANN cost recovery structure for domain name registries which was posted on the ICANN website. Mr. Roberts welcomed comments from the GAC on the document.

3.a. Mr. Roberts noted that at the Yokohama meeting, the GAC invited ICANN to write to the relevant governments and public authorities to ascertain their views concerning the current delegation for the ccTLDs that correspond to their jurisdictions. Mr. Roberts noted that ICANN had developed and posted a draft letter for community comment in response to this request. He welcomed the input and comments of the GAC on the draft. The draft letter was posted on the Internet at <http://www.icann.org/cctlds/draft-letter-to-govts-12nov00.htm>.

3.b. Mr. Roberts noted that ICANN was preparing to enter into agreements with ccTLD administrators. He indicated that the agreements would likely take two forms, one form would apply to situations where the ccTLD administrator was operating under a framework compliant with the GAC Principles, and the other would apply where the GAC Principles had not been put in place. Mr. Roberts indicated that the agreements were not intended to be inflexible under the umbrella of being compliant with GAC Principles.

4.a. Mr. Roberts noted that there was considerable momentum and friction points within the Internet community related to the development of multilingual domain name registration technology. He said that the ICANN Board of Directors felt that the introduction and global benefits of multilingual domain name registration should progress swiftly under a framework that supports the worldwide inter-operability of the DNS.

Dialogue with the ICANN Board

Members of the GAC then entered into a dialogue with the ICANN Board of Directors.

The GAC Chair noted that GAC members had a discussion about progress in their countries to implement the GAC Principles for their associated ccTLDs. The Chair also noted that governments would be posting information about their progress to implement the principles on the GAC website.

The representative for Sweden asked the board to outline the process for the selection of new TLD's and the role of the GAC. Esther Dyson responded that the evaluation report had been published and was posted for public comment with the actual applications. After the public comment period at the meeting the board would make its selection of the applications to move towards negotiations between ICANN and the selected registries.

Ms. Dyson indicated that there was no formal role for the GAC in the actual selection and negotiation process, but noted that input and advice from the GAC would be welcomed.

The representative for the EU asked the board how they selected the team of evaluators and how many board members would be participating in the selection process. Ms. Dyson responded that Board engaged a diverse team of expert evaluators (the composition of the evaluation teams are described in the TLDs evaluation report posted at <http://www.icann.org/tlds/report/>). She reported that 12 Board members would be deciding on the new TLD applications, given that some directors had recused themselves from the TLD selection process.

The Chair noted to the Board that the GAC would discuss new TLD issues in the course of its meeting.

The representative for South Africa noted his keen interest in matters concerning geographic names and new top level domains and asked how the ICANN board was dealing with the issue. The representative also asked the board how it would take into account the forthcoming WIPO report on domain name/intellectual property issues, including geographic names. The representative for South Africa also asked if the board had considered issues of the digital divide with respect to domain names, particularly noting problems of connectivity in Africa.

Ms. Dyson noted that the report resulting from WIPO's second domain name process would likely follow a similar process to the submission of WIPO's first report to ICANN. Ms. Dyson also noted that digital divide issues as they relate to domain names has not been an issue that has been raised but the board would welcome specific thoughts on the issue. Another board member noted that ICANN had asked TLD applicants to indicate in their proposals how they would handle mass "land rushes" for domain names, and that he supported a measured approach to the implementation of registrations in the new TLDs. Another board member noted that the Board was considering geographic issues related to new TLDs in terms of the use of two letter and three letter TLD that correspond to the ISO-3166 list, such as that advised by the GAC Cairo recommendation. The board indicated that additional input from the GAC on these issues was welcomed.

The representatives for France, Italy and Chile noted that arrangements could be put in place to encourage more participation by not-for-profit organisations in the TLD application process, including perhaps lowering or dropping the application fee. Ms. Dyson reported that the registration fee was in place to offset ICANN's costs for conducting the new TLD process and that a lack of application fee could result in a high volume of frivolous applications. However, Ms. Dyson recognised that the board and GAC members shared common ground in the interest of promoting of not-for-profit participation in the process.

5 Presentation on Internet Protocol Numbering Issues (Open Session)

Two presentations were made to the GAC on Internet Protocol numbering issues. Ms Mirjam Kuhne from RIPE NCC conducted a tutorial on the IP number allocation process and the regional numbering registry system. Mr Hans Petter Holen, Chair of the Address Council, gave a presentation on ICANN's Address Supporting Organisation. Both presentations can be found at
< <http://www.noie.gov.au/projects/international/DNS/gac/index.htm#Publications> >.

6 Next Meeting

It was agreed that the next face-to-face meeting of the GAC would be held in March 2001 in Melbourne, Australia, to coincide with ICANN's next round of meetings.

7 Any Other Business

First Election for GAC Chair – There was discussion on issues relating to the First Election for the GAC Chair. It was resolved that, in accordance with the ICANN Bylaws and GAC Operating Principles, the GAC would request ICANN to call the First Election of the GAC Chair. It was further agreed that the International Telecommunication Union and the World Intellectual Property Organisation would act as Returning Officer and Scrutineer respectively.

8 GAC Communiqué

It was agreed that a communiqué would be issued directly after the meeting. After discussion, a text was agreed upon. The text of the communiqué has been posted on the Internet at
http://www.noie.gov.au/projects/international/DNS/gac/gacmtg7_communique.htm