ICANN-CCNSO-DRDWG

Public Consultation

On

Potential Issues and their Classification

June 14, 2010

Delegation and Redelegation Working Group Members

ccTLD representatives, according to ICANN Regions:

Africa

- Eberhard Lisse, .na
- Vika Mpisane, .za
- Paulos Nyirenda, .mw
- Alioune Badara Traore, .ml

Asia-Pacific

- **Keith Davidson .nz (Chair of the working group)**
- Chris Disspain, .au (ccNSO Chair)
- Young-Eum Lee, .kr (ccNSO Vice-Chair)
- Dave Main, .ws
- Bill Semich, .nu

Europe

- Martin Boyle, .uk
- Staffan Jonson, .se
- Annebeth Lange, .no
- Slobodan Markovic, .rs
- Desiree Miloshevic, .gi
- Nigel Roberts, .gg
- Denzil West, .ms

Latin America

- Patricio Poblete, .cl (Observer)
- Oscar Robles, .mx

North America

- Byron Holland, .ca (ccNSO vice-Chair)
- Dotty Sparks de Blanc, .vi

GAC

- Jayantha Fernando, Sri Lanka
- Suzanne Sene, USA

Other

- Jaap Akkerhuis, expert invited by the Chair
- **Becky Burr, NomCom appointee to the ccNSO Council (Vice-chair of the working group)**
- Erick Iriarte Ahon, LACTLD

ICANN Staff Support

- Bart Boswinkel
- Kim Davies
- Anne-Rachel Inne
- Massimiliano Minisci
- Kristina Nordström
- Gabriella Schittek
- Bernard Turcotte

Objective

PLEASE NOTE: This paper is published to seek input and comment from the community. The Working Group will continue its work during this consultation period. After closure of the comment period, the working group will finalise this paper taking into account the public comments and input..

The objective of this paper is to solicit input from the community on the following topics:

- Is the methodology developed and employed adequate for the purposes of the DRDWG?

- Do the policy statements identified provide an adequate baseline to evaluate the actual practices of IANA and the ICANN Board relative to delegation, redelegation and retirement of ccTLDs?

- Are there other policy statements which are applicable to the work of the DRDWG?   Should they be included in the baseline?

- Does the documentation identified provide an adequate representation of the actual practices of IANA and the ICANN Board relative to delegation, redelegation and retirement of ccTLDs?

- Should other cases be included for analyses?

- Is there other documentation which is applicable to the work of the DRDWG which should be analyzed?

- Was the methodology properly applied to the cases?

To be most helpful you are kindly requested to submit your comments by 15 September 2010 at: (include link to public comment forum)

Public Consultation on Potential Issues and their Classification

Executive Summary

The purpose of the Delegation, Redelegation and Retirement Working Group (DRDWG) is to advise the ccNSO Council whether it should launch a policy development process to recommend changes to the current policies for delegation, re-delegation and retirement of ccTLDs.

As reported in its previous progress report (http://ccnso.icann.org/workinggroups/report-drd-25feb10-en.pdf):

- *The working group has not identified an authoritative source which has compiled all relevant policies or guidelines; and,*

- *There is no publicly available documentation of the current practices or procedures.*

In an attempt to understand the current policies and practices the working group performed an initial analysis of the following documents ("Policy Statements"):

- RFC 1591 (and earlier RFCs that are directly relevant) [1]
- ICP-1
- GAC Principles 2000 and 2005

These Policy Statements provided a baseline against which to evaluate the actual practices of IANA and the ICANN Board, as reflected in the following documentation ("Documentation"):

- All IANA reports on ccTLD delegations, redelegations and retirements
- All ICANN Board decisions affecting delegations, redelegations and retirements.

Finally, where the differences between the Policy Statements and the processes and outcomes reflected in the Documentation suggest a change in policy, the working group considered whether or not such changes were implemented in a manner consistent with the procedural requirements of the ICANN Bylaws.

On the basis of the initial analysis of the Documentation, 16 cases were identified that the WG considered potentially relevant to the work of the DRDWG. The WG conducted further analysis on these 16 cases, using formal classification methodology described in

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[1] The WG sought documentation relating to establishment of Top Level Domains prior to ICANN's existence, but have not yet uncovered any useful documents disclosing reasoning for decisions taken or a description of the decision making procedures used. Concern has been expressed about the term "delegation", which is in common use, raising further issues in respect of identification of statutory and/or contractual authority, RFC920 (1984) and RFC1032 (1987) referring to the "registration" of Top Level Domains rather than "delegation".

The WG was not yet in a position to examine these issues on which there is some divergence of opinion within the group.

Executive Summary

Introduction section of this report.

The objective of this document is to solicit input from the community on the following topics from this paper:

- Do the policy statements identified provide an adequate baseline to evaluate the actual practices of IANA and the ICANN Board relative to delegation, redelegation and retirement of ccTLDs?
- Are there other policy statements which are applicable to the work of the DRDWG which should be included in the baseline?
- Does the documentation identified provide an adequate representation of the actual practices of IANA and the ICANN Board relative to delegation, redelegation and retirement of ccTLDs?
- Is there other documentation which is applicable to the work of the DRDWG which should be analyzed?
- Is the methodology developed and employed in the analysis of the documentation vs the policy statements and the ICANN Bylaws adequate for the purposes of the DRDWG?
- Was the methodology properly applied to the cases?

Section	Title	Classification
1	May 1999 - RFC1591 – ICP1	Significantly Interesting
2	September 25th, 2000 - ISO 3166 Reserved List Decision	Significantly Interesting
3	September 25th, 2000 – Sponsorship Agreements Decision	Interesting
4	September 10th, 2001 – .AU Redelegation	Possibly Interesting
5	September 10th, 2001 – Redelegation without admin. Contact support	TBD
6	September 10th, 2001 – Not allowing individuals as delegees for ccTLDs	Interesting
7	November 19th, 2001 – .US Redelegation	Significantly Interesting
8	June 9th, 2004 – .LY Redelegation	Significantly Interesting
9	March 21st, 2005 – .EU Delegation	Possibly Interesting
10	July 28th, 2005 – .KZ Redelegation	Significantly Interesting
11	July 18th, 2006 – .GD Redelegation	Interesting
12	January 16th, 2007 – .UM Undelegation	Significantly Interesting
13	September 11th, 2007 – .YU Redelegation	Significantly Interesting
14	September 11th, 2007 – .YU Retirement (revocation)	Significantly Interesting
15	November 20th, 2007 – .BB Redelegation	Interesting
16	January 23rd, 2008 – .AE Redelegation	Significantly Interesting

Introduction and Methodology

In order to understand the current policies and practices the working group performed an initial analysis based on:

(1) The following documents that, taken together, are generally considered the key policy statements relating to delegation, redelegation, and retirement of ccTLDs ("Policy Statements"):
- RFC1591
- ICP1
- GAC Principles 2000 and 2005

(2) The documentation reflecting actions taken by IANA and/or the Board with respect to delegation and redelegation of ccTLDs (the "Documentation"):

- All IANA reports on ccTLD delegations, redelegations and retirements
- All ICANN Board decisions affecting delegations, redelegations and retirements.

(3) The working group considered the Policy Statements and Documentation in the context of ICANN's processes for policy development in light of the ICANN Bylaws.

By comparing the Policy Statements to the Documentation, and taking into account the ICANN Bylaws related to policy development, the working group identified 16 cases as potentially relevant to the work of the DRDWG and that merited an in depth analysis.

Classifying issues

Issue classification should be kept simple. The goal was to identify areas where there appeared to be a gap between the Policy Statements and the Documentation. Therefore the working group agreed upon the following classes:

- Significantly Interesting (would strongly support recommendation of a PDP)
- Interesting (could support the recommendation of a PDP)
- Possibly Interesting (would probably not support a recommendation for a PDP)

The 16 cases mostly fall into two main categories:
- Cases related to policy development (implicit or explicit)
- Cases related to the application of policy.

Combing the two characteristics, Issues can be qualified as falling into one of six classes:

	Significantly interesting	Interesting	Possibly interesting
Issue related to policy	Significantly departs from the Policy Statements.	Departs from the Policy Statements in some ways	Complies with the requirements set out in the Policy Statements in most or all ways.
Application of policy	Significantly departs from the requirements set out in the Policy Statements	Fails to meet some requirements set out in the Policy Statements	Meets most or all requirements set out in the Policy Statements

In examining the cases the working group considered the following simple decision tree to assist them in classifying the issues:

FIRST:

- Do the difference between the Policy Statements and the Documentation ("Issues") suggest a change in policy applicable to the delegation, redelegation or retirement of ISO 3166-1 ccTLDs?

  The following questions can be used to determine this:

  - This differences identified involve an explicit or implicit Board decision that concerns the delegation, redelegation or retirement of a ccTLD (s).
  - The core elements of the approach reflected in the Documentation appear to be inconsistent with or not addressed by an existing Policy Statement.
  - Noticeable changes are generated.
  - The differences identified relate to something that could be applied broadly, i.e., involve an approach that is likely to have lasting value or applicability, albeit with the need for occasional updates, and to establish a guide or framework for future decision-making?

  If the answer to all 4 is yes, the working group considered the differences to be a change in policy.

  If the answer is yes to the first 3 questions, then the working group determined that the differences probably reflected a change in policy.

  Other combinations probably do not policy changes.

NEXT:

If the working group determined that the gap between the Policy Statements and the Documentation in any particular case did reflect, or probably reflected a change of policy, the working group considered whether or not the change was undertaken in accordance with the applicable procedural requirements for policy changes, (The rules for policy changes during the different phases of the evolution of ICANN are listed in Annex 1 of this section).

- If the change was undertaken in accordance with most or all of these rules for policy development, then the DRDWG classified it a Potentially Interesting.
- If the change was undertaken in a way that was inconsistent with some aspect of the applicable rules to policy development, then the DRDWG classified it as Interesting.
- If the change was undertaken in a manner that departed from the applicable rules for policy development in one or more significant ways, then the DRDWG classified it as Significantly Interesting.

Where the working group identified no change of policy, it considered whether or not the Documentation reflected an implementation of policy. The following questions were used to determine this:

- This issue is an explicit or implicit Board decision that concerns the delegation, redelegation or retirement of a ccTLD (s).
- The core elements of this case appear to be covered by an existing policy.

If the answer to both is yes, the issue being considered is an application of policy.

- If all of the critical elements of the issue being considered appear to be clearly and directly supported by the applicable Policy Statement, then the DRDWG classified it a Potentially Interesting.
- If some critical elements of the issue being considered were not clearly and directly supported by the applicable Policy Statements, then the DRDWG classified it as Interesting.
- If most or all of the critical elements of the issue being considered appear to be not clearly and directly supported by the applicable Policy Statements, then the DRDWG classified it as Significantly Interesting.

Absence of Policy

In an organisation such as ICANN, where the Board of Directors makes a decision that can be cited in the future, such decisions should be viewed as affecting policy, even if under the circumstances, the decision only applies to a single ccTLD because this

decision sets a precedent. Evaluators should refer to the policy section to evaluate these issues.

Introduction - Annex 1 - Evolution of policy development processes

- ICANN has consistently referred to ICP1 as its only policy for processing ccTLD related issues:

  - "In May 1999, ICANN and the IANA jointly issued a document entitled "Internet Domain Name System Structure and Delegation", commonly known as "ICP-1." This document contains a statement of the policies then being followed by the IANA in connection with ccTLDs. Those policies are still in effect today, making ICP-1 both the best reference for existing policy and a starting point for consideration of ccTLD policy changes" - (http://www.icann.org/en/meetings/cairo2000/cctld-topic.htm)

- ICP1 begins with the following wording (May 1999 http://www.icann.org/en/icp/icp-1.htm):

  - This document is a summary of current practices of the Internet Assigned Numbers Authority (IANA) in administering RFC 1591, which includes the guidance contained in ccTLD News Memo #1 dated October 23, 1997. It DOES NOT reflect any changes in policy affecting the administration of DNS delegations. It is intended to serve as the basis for possible future discussions of policy in this area. Changes in ICANN/IANA policy will be made following public notice and comment in accordance with the ICANN Bylaws.
  - Note: combined with the previous point this would imply that all policies that were applicable to ccTLDs at the time of publication of ICP1 were contained in RFC1591.

- The ICANN Bylaws at this time (1999, http://www.icann.org/en/general/archive-bylaws/bylaws-29oct99.htm) included the following provisions:

  - Section 3. NOTICE AND COMMENT PROVISIONS - (b) With respect to any policies that are being considered by the Board for adoption that substantially affect the operation of the Internet or third parties, including the imposition of any fees or charges, the Board will:

    - (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;

- o (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and
- o (iii) hold a public forum at which the proposed policy would be discussed.

- ▪ The next major evolution of the ICANN Bylaws is at the end of 2002 following the Evolution and Reform Process (http://www.icann.org/en/general/archive-bylaws/bylaws-15dec02.htm). The following statements from the Core Values seem relevant:

  - 4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.
  - 7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
  - 9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.
  - The Notice requirements from the previous version were also maintained in Section 6

- ▪ Following this the next major evolution was the creation of the ccNSO and the inclusion of the related section of the Bylaws in June 2003 (http://www.icann.org/en/general/archive-bylaws/bylaws-26jun03.htm). This still has the Core Values presented in the previous version and:
  - There shall be a policy-development body known as the Country-Code Names Supporting Organization (ccNSO), which shall be responsible for:

    - o 1. developing and recommending to the Board global policies relating to country-code top-level domains;
    - o 2. Nurturing consensus across the ccNSO's community, including the name-related activities of ccTLDs; and
    - o 3. Coordinating with other ICANN Supporting Organizations, committees, and constituencies under ICANN.

  - Annex B and C clearly define that in most cases policy affecting ccTLDs can only be developed by the ccNSO via the PDP.

- These Bylaws are still in effect in 2010.

  - This then describes the current policies, at the time, and the procedures for amending these. Changing policies without following these procedures would imply that an issue is probably Significantly Interesting.

Section 1

RFC1591 – ICP1

From the comparison of these two documents we have:

Item 102 presents significant variation in the language from: "In cases when there are persistent problems with the proper operation of the domain, the delegation may be revoked, and possibly delegated to another designated manager." to "In cases where there is misconduct, or violation of the policies set forth in this document and RFC 1591, or persistent, recurring problems with the proper operation of a domain, the IANA reserves the right to revoke and to redelegate a Top Level Domain to another manager. (May 1999).

Although ICP1 was never formally accepted via a decision by the ICANN Board, the numerous references to it in Board documents as a policy document confer to it the status of being a statement of policies. If ICP1 is a policy document then it must be considered as approved by the Board given only the Board can set policy.

The decision to be considered is: to "In cases where there is misconduct, or violation of the policies set forth in this document and RFC 1591, or persistent, recurring problems with the proper operation of a domain, the IANA reserves the right to revoke and to redelegate a Top Level Domain to another manager."

1. Change of policy or application of policy?

    1.1. Applicable Policies and Facts

        1.1.1. RFC1591 does not mention revocation for misconduct or violation of policies. The only relevant section of text is "In cases when there are persistent problems with the proper operation of the domain, the delegation may be revoked, and possibly delegated to another designated manager."
        1.1.2. GAC Principles (2000) were not yet published.
        1.1.3. No other policy decisions mentioning revocation of a delegation of a ccTLD for any cause were documented at the time of this decision.

    1.2. Evaluation:

        1.2.1. This is an implicit decision of the Board regarding the revocation of ccTLDs.
        1.2.2. The core elements of this decision are not covered by an existing policy.

            1.2.2.1. Revocation-redelegation of a ccTLD is one of the most significant decisions with respect to ccTLDs and adoption of this decision would cause noticeable changes.

        1.2.3. This Board decision is not specific to a given ccTLD, but to all ccTLDs.

1.3. Conclusion

    1.3.1. This implicit decision by the Board meets the four criteria from the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2. Did this meet the requirements for policy development?

  2.1. The date of this decision, May 1999
  2.2. This would limit the policy development requirements to Section 3. NOTICE AND COMMENT PROVISIONS.

    2.2.1. (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;
    2.2.2. (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and
    2.2.3. (iii) hold a public forum at which the proposed policy would be discussed.

  2.3. Bylaws in effect at the time (http://www.icann.org/en/general/archive-bylaws/bylaws-16jul00.htm) noted that:

    2.3.1. The DNSO shall advise the Board with respect to policy issues relating to the Domain Name System.

  2.4. Evaluation:

    2.4.1. There is no record of a public consultation on this topic.
    2.4.2. There is no record of a public forum discussion on this topic.
    2.4.3. There is no record of any communications between the Board and the DNSO on this matter that could be considered advice.

  2.5. Conclusion

    2.5.1. This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Significantly Interesting.

  2.6. Note: If the DRDWG supports this decision this would challenge the statement introducing ICP1: "This document is a summary of current practices of the Internet Assigned Numbers Authority (IANA) in administering RFC 1591, which includes the guidance contained in ccTLD News Memo #1 dated October 23, 1997. It DOES NOT reflect any changes in policy affecting the administration of DNS delegations."

Section 2

ISO 3166 Reserved List Decision

September 25th, 2000

September 25th, 2000 - ISO 3166 Reserved List Decision

ICANN Board Minutes 20000925 (September 25th 2000)

It is therefore RESOLVED [00.74] that the IANA staff is advised that alpha-2 codes not on the ISO 3166-1 list are delegable as ccTLDs only in cases where the ISO 3166 Maintenance Agency, on its exceptional reservation list, has issued a reservation of the code that covers any application of ISO 3166-1 that needs a coded representation in the name of the country, territory, or area involved[2];

1. Change of policy or application of policy?

   1.1. Applicable Policies and Facts

      1.1.1. The relevant sections from RFC1591 are:

         1.1.1.1.   2. The Top Level Structure of the Domain Names - In the Domain Name System (DNS) naming of computers there is a hierarchy of names. The root of system is unnamed. There are a set of what are called "top-level domain names" (TLDs). These are the generic TLDs (EDU, COM, NET, ORG, GOV, MIL, and INT), and the two letter country codes from ISO-3166. It is extremely unlikely that any other TLDs will be created.
         1.1.1.2.   4. Rights to Names - The IANA is not in the business of deciding what is and what is not a country. The selection of the ISO 3166 list as a basis for country code top-level domain names was made with the knowledge that ISO has a procedure for determining which entities should be and should not be on that list.

      1.1.2. The relevant sections from ICP1 are:

         1.1.2.1.   Top Level Structure of the DNS - The DNS structure contains a hierarchy of names. The root, or highest level, of the system is unnamed. Top Level Domains (TLDs) are divided into classes based on rules that have evolved over time. Most TLDs have been delegated to individual country managers, whose codes are assigned from a table

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[2] According to the ISO 3166 MA the code EU was put on the reserved list under the following circumstances: In 1996 the ISO 3166 MA received the request to reserve the code element EU for or allocated to the European Union. The request originated from the ISO 4217 MA needing an ISO 3166-2 code lelment as basis for a currency element for the future EU currency (EURO). The ISO 3166 MA decided it could not allocate EU for the European Union at that stage, because it did not qualify for inclusion in ISO 3166 yet. However the need for a currency code for the EURO was recognized.

Since, an accordance with the Maaastricht Treaty the European Union had set as a goal the integration of its member states into a common geo political entity, in ISO 3166 terms equivalent to a country, the MA decided to reserve the ISO 3166 alpha-2 code element EU on special request of the ISO 4217 MA for an indeterminate period of time.

known as ISO-3166-1, which is maintained by an agency of the United Nations. These are called country-code Top Level Domains, or ccTLDs.

1.1.2.2. The Management of Delegated Domains - (i) Uses of ISO 3166-1 Table. The IANA is not in the business of deciding what is and what is not a country. The selection of the ISO-3166-1 list as a basis for country code top-level domain names was made with the knowledge that ISO has a procedure for determining which entities should be and should not be on that list.

1.1.3. The relevant sections from the GAC Principles (2000) :

1.1.3.1. "3.3 Country code top level domain' or 'ccTLD' means a domain in the top level of the global domain name system assigned according to the two-letter codes in the ISO 3166-1 standard, 'Codes for the Representation of Names of Countries and Their Subdivisions."

1.2. Evaluation:

1.2.1. This is an explicit decision by the Board that concerns the delegation of ccTLDs.

1.2.2. The core elements of this decision were not covered by existing policies at the time of the decision.

1.2.2.1. No ccTLDs from the ISO 3166-1 Exceptionally Reserved List had been allocated since the inception of ICP1.

1.2.2.2. IANA has approved ccTLDs from this list in the past however this was prior to RFC1591 and ICANN. (Note: there is some information that when IANA did allocate ccTLDs from the ISO3166 Reserved list that it required these to be codes that were in current use by the Universal Postal Union).

1.2.3. Allowing for a new class of ccTLDs is a significant change for ccTLDs. The decision will generate noticeable changes.

1.2.4. This Board decision is not specific to a given ccTLD but to all that qualify going forward.

1.3. Conclusion

1.3.1. This explicit decision by the Board meets the four criteria from the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2. Did this meet the requirements for policy development?

2.1. The date of this decision, September 25th, 2000

2.2. This would limit the policy development requirements to Section 3. NOTICE AND COMMENT PROVISIONS.

    2.2.1. (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;

    2.2.2. (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and

    2.2.3. (iii) hold a public forum at which the proposed policy would be discussed.

2.3. Evaluation:

    2.3.1. There is no record of a public consultation on this topic.

    2.3.2. There is no record of a public forum discussion on this topic.

    2.3.3. There is no record of any communications between the Board and the DNSO on this matter that could be considered advice.

2.4. Conclusion

    2.4.1. This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Significantly Interesting.

2.5. Note:

    2.5.1. Although this Board decisions is a modification to the policies applicable to ccTLDs it was never incorporated into ICP1 and there were never any follow on documents to ICP1. This is an interesting meta issue to the work of the DRDWG given ICP1 continued to be referred to as the only policy document applicable to ccTLDs within ICANN even after this decision (the GAC Principles being referred to as guidance). This would suggest that this decision was classified as a non-policy decision. Because of this many ccTLDs participating in ICANN still consider RFC1591 as the only policy document applicable to ccTLDs (given ICP1 states it contains no new policies).

        2.5.1.1. From the 2003, almost 3 years after this decision, the IANA Report on the redelegation of .KY (http://www.iana.org/reports/2003/ky-report-30jun03.html) we find the following in the Evaluation section of the document – "In acting on redelegation requests, the IANA currently follows the practices summarized in "Internet Domain Name System Structure and Delegation" (ICP-1). ICP-1 represents an update of the portions of RFC 1591 (which was issued in March 1994) dealing with ccTLDs, and reflects subsequent documents and evolution of the

policies followed by the IANA through May 1999. Relevant guidance is also provided in the GAC Principles."

2.5.2. The board minutes for this decision are in Annex 1 of this section and provide an interesting insight into the thinking of the Board with respect to this decision.

Section 2 - Annex 1 – Board Minutes

Text from the Board minutes accompanying this decision:

DELEGATION OF ccTLDs

Mr. Roberts raised the need for interpretation of existing policies regarding the delegation of "country code" top-level domains (ccTLDs). There are two areas in which the Board should consider clarifying the manner in which ccTLD policies are to be implemented:

1. ICP-1, which summarizes the current ccTLD policies, states that new ccTLD "codes are assigned from a table known as ISO-3166-1." On 6 July 2000, Erkki Liikanen, the European Commissioner for Enterprise & Information Society, wrote to Mr. Roberts regarding the possible establishment of an .eu TLD. Although the alpha-2 code "eu" is not directly included on the ISO 3166-1 list, the ISO 3166 Maintenance Agency, as pointed out in Mr. Liikanan's letter, "has decided to extend the scope of the reservation of the code element EU to cover any application of ISO 3166-1 that needs a coded representation of the name European Union, including its being used as an Internet Top Level Domain." This gives it a status that seems practically equivalent to direct listing. The IANA staff seeks the Board's guidance as to whether codes not directly listed but having been granted an "any application" reservation on the ISO 3166 Maintenance Agency's exceptional reservation list should be treated as subject to delegation under ICP-1.

2. For several months, discussions have been ongoing in the Internet community regarding the legal and other relationships between ICANN and ccTLD managers. Mr. Roberts stated that, although there continues to be disagreement about terms, there appears to be a clear consensus that ICANN's relationships with ccTLD managers should be set forth in contract. (In the past, there have been no contracts.) Indeed, ICANN's Memorandum of Understanding with the U.S. Department of Commerce states that one task remaining to be completed in the transition is for ICANN to "achieve stable agreements" with ccTLD organizations.

Mr. Roberts presented the following resolutions for discussion (the numbers in brackets are added for convenience of reference in the discussion below):

[1] Whereas, the participants in the ICANN process have for many months been engaged in discussions regarding the appropriate relationships among organizations operating ccTLDs, the relevant governments or public authorities, and ICANN, this topic having been discussed in detail in connection with the ICANN meetings in March 2000 in Cairo and in July 2000 in Yokohama;

[2] Whereas, at the Cairo meeting the Board authorized (in Resolution 00.13) the President and staff to work with the ccTLD organizations, Governmental Advisory

Committee, and other interested parties to prepare draft language for contracts, policy statements, and/or communications embodying these relationships;

[3] Whereas, although the exact terms of the relationships are still under discussion, some progress has been made, and it is clear that ICANN and the ccTLD organizations should enter into agreements with each other describing their roles and responsibilities;

[4] Whereas, ICANN has committed in its second status report under its Memorandum of Understanding with the United States Government and in Amendment 2 to that Memorandum of Understanding to continue its efforts to achieve stable agreements with the ccTLD organizations;

[5] Whereas, the United States Government has indicated that completion of the transition of responsibilities for technical coordination of certain Internet functions from the United States to the private sector requires achievement of stable and appropriate agreements between ICANN and the ccTLD organizations;

[6] Whereas, completion of the transition is a high priority and all reasonable efforts should therefore be devoted toward finalizing and entering appropriate and stable agreements with organizations operating ccTLDs;

[7] Whereas, the IANA has received various applications for establishment of ccTLDs involving alpha-2 codes not on the ISO 3166-1 list but on the reserved list published by the ISO 3166 Maintenance Agency;

[8] Whereas, the IANA's practice on the delegability of such codes has varied from time to time in the past;

[9] Whereas, the IANA staff has requested guidance as to the appropriate practice to follow regarding such codes;

[10] It is therefore RESOLVED that the IANA staff is advised that alpha-2 codes not on the ISO 3166-1 list are delegable as ccTLDs only in cases where the ISO 3166 Maintenance Agency, on its exceptional reservation list, has issued a reservation of the code that covers any application of ISO 3166-1 that needs a coded representation in the name of the country or territory involved;

[11] It is further RESOLVED that in view of the state of ongoing discussions directed toward reaching stable and appropriate agreements between ICANN and the ccTLD organizations, delegation of additional ccTLDs should be finalized only upon achievement of stable and appropriate agreements between ICANN and the ccTLD organization, in a form approved by the Board.

In discussion of this issue, Ms. Dyson, Mr. Fockler, and Mr. Abril i Abril expressed the view that providing a response to the IANA staff regarding how to treat "any application" reservations (see [10] above) raised a policy matter, which should be referred to the

DNSO. Other Board members stated that it was important for the IANA to be able to deal with particular applications in a timely manner, that the question posed involves only a minor interpretational matter rather than the type of significant policy matter for which the DNSO is designed to provide recommendations, and that in these circumstances it is appropriate for the Board to act.

During the above discussion, Ms. Wilson, Mr. Cohen, and Ms. Capdeboscq joined the call. In the early part of the following discussion, Mr. Pisanty joined.

In continuing discussion, Mr. Triana stated his view that the guidance sought by the IANA staff does not involve any new policy. Various directors discussed the proper procedure for formulating the guidance requested by the IANA staff, with the discussion emphasizing the importance of balancing the urgency of action with the degree of policy content involved.

Mr. Fockler moved to revise clause [10] above and to add a clause [10.5] to read as follows:

   [10] It is therefore RESOLVED that the ICANN Board intends to advise the IANA staff after decision at the November 2000 Board meeting that alpha-2 codes not on the ISO 3166-1 list are delegable as ccTLDs only in cases where the ISO 3166 Maintenance Agency, on its exceptional reservation list, has issued a reservation of the code that covers any application of ISO 3166-1 that needs a coded representation in the name of the country or territory involved;

   [10.5] It is further RESOLVED, that the ICANN Board will seek the opinion of the DNSO prior to the November 2000 board meeting on this use of alpha-2 codes not on the ISO 3166-1 list;

The motion was seconded and discussed. In the discussion, several Board members expressed the view that the Board should take care not to intrude on the primary responsibility of the DNSO to make recommendations on policy. Board members also commented, on the other hand, that the DNSO process would take too long in view of the need to respond to a pending request and that the matter at hand does not involve a change in policy, but rather only an interpretation of existing policy. The question of whether to adopt the amendment was called, and the motion to amend was defeated, with three directors voting in favor (Ms. Dyson, Mr. Abril i Abril, and Mr. Fockler) and fourteen voting against. (Mr. Abramatic and Mr. Conrades were not in attendance.)

Mr. Wong proposed amending clause [10] by replacing "country or territory" with "country, territory, or area". By consensus, this amendment was adopted.

In the discussion, it was noted that the provision in clause [11] for entry of stable and appropriate agreements between ICANN and ccTLD organizations prior to actual delegation is necessary and appropriate to further ICANN's purposes because it involves

the initial establishment of ICANN's initial set of relationships and essential to fulfillment of the mission envisioned for ICANN in the White Paper.

The following resolutions were then read and adopted, with 16 directors (Ms. Dyson, Mr. Abril i Abril, Mr. Robert Blokzijl, Ms. Capdeboscq, Mr. Cerf, Mr. Cohen, Mr. Crew, Mr. Davidson, Mr. Fitzsimmons, Mr. Kraaijenbrink, Mr. Murai, Mr. Pisanty, Mr. Roberts, Mr. Triana, Ms. Wilson, and Mr. Wong) voting in favor and one director (Mr. Fockler) voting against:

Whereas, the participants in the ICANN process have for many months been engaged in discussions regarding the appropriate relationships among organizations operating ccTLDs, the relevant governments or public authorities, and ICANN, this topic having been discussed in detail in connection with the ICANN meetings in March 2000 in Cairo and in July 2000 in Yokohama;

Whereas, at the Cairo meeting the Board authorized (in Resolution 00.13) the President and staff to work with the ccTLD organizations, Governmental Advisory Committee, and other interested parties to prepare draft language for contracts, policy statements, and/or communications embodying these relationships;

Whereas, although the exact terms of the relationships are still under discussion, some progress has been made, and it is clear that ICANN and the ccTLD organizations should enter into agreements with each other describing their roles and responsibilities;

Whereas, ICANN has committed in its second status report under its Memorandum of Understanding with the United States Government and in Amendment 2 to that Memorandum of Understanding to continue its efforts to achieve stable agreements with the ccTLD organizations;

Whereas, the United States Government has indicated that completion of the transition of responsibilities for technical coordination of certain Internet functions from the United States to the private sector requires achievement of stable and appropriate agreements between ICANN and the ccTLD organizations;

Whereas, completion of the transition is a high priority and all reasonable efforts should therefore be devoted toward finalizing and entering appropriate and stable agreements with organizations operating ccTLDs;

Whereas, the IANA has received various applications for establishment of ccTLDs involving alpha-2 codes not on the ISO 3166-1 list but on the reserved list published by the ISO 3166 Maintenance Agency;

Whereas, the IANA's practice on the delegability of such codes has varied from time to time in the past;

Whereas, the IANA staff has requested guidance as to the appropriate practice to follow regarding such codes;

It is therefore RESOLVED [00.74] that the IANA staff is advised that alpha-2 codes not on the ISO 3166-1 list are delegable as ccTLDs only in cases where the ISO 3166 Maintenance Agency, on its exceptional reservation list, has issued a reservation of the code that covers any application of ISO 3166-1 that needs a coded representation in the name of the country, territory, or area involved;

It is further RESOLVED [00.75] that in view of the state of ongoing discussions directed toward reaching stable and appropriate agreements between ICANN and the ccTLD organizations, delegation of additional ccTLDs should be finalized only upon achievement of stable and appropriate agreements between ICANN and the ccTLD organization, in a form approved by the Board.

Section 3

Sponsorship Agreement Decision

September 25th, 2000

+ICANN Board Minutes 20000925 (September 25th 2000)

It is further RESOLVED [00.75] that in view of the state of ongoing discussions directed toward reaching stable and appropriate agreements between ICANN and the ccTLD organizations, delegation of additional ccTLDs should be finalized only upon achievement of stable and appropriate agreements between ICANN and the ccTLD organization, in a form approved by the Board.

1. Change of policy or application of policy?

   1.1. Applicable Policies and Facts

      1.1.1. RFC1591 does not mention agreements or contracts in any form.
      1.1.2. ICP1 does not mention agreements or contracts in any form or requiring Board approval for delegations or redelegations.
      1.1.3. Relevant sections from the GAC Principles (2000):

         1.1.3.1. 3. DEFINITIONS - 2 'Communication' should include a law, regulation, agreement, document, contract, memorandum of understanding, or any other written instrument, as appropriate.
         1.1.3.2. 6. ROLE OF ICANN - 6.2 Specifically in relation to the administration and operation of ccTLDs, ICANN's role is to develop and implement policies that fulfil the provisions of Clause 10 below.
         1.1.3.3. 10. PRINCIPLES CONCERNING THE COMMUNICATION BETWEEN ICANN AND THE DELEGEE

            1.1.3.3.1. Section 10 seems to support the notion of agreements between ICANN and ccTLDs (See Annex 1 at the end of this section for a complete listing of section 10 text).

   1.2. Evaluation:

      1.2.1. This is an explicit decision by the Board that concerns the delegation and redelegation of ccTLDs.
      1.2.2. The core elements of this decision are not covered by any existing policies.

         1.2.2.1. The GAC Principles 2000 seem to support the notion of agreements between ICANN and ccTLDs. However it is important to note that the status of these vs policies is unclear. These are meant to be "guidance" for the Board but cannot be considered policies for the corporation.

      1.2.3. The decision will generate noticeable changes:

         1.2.3.1. Many ccTLDs considered this decision to be a critical change in policy. Going from an environment where there were no agreements

required for delegation and redelegation of ccTLDs under RFC1591 and ICP1 to an environment where delegations and redelegations now required contracts with significant additional commitments than those present in RFC1591 should be considered significant.

1.2.4. This Board decision is not specific to a given ccTLD but to all that qualify going forward.

1.3. Conclusion

1.3.1. This explicit decision by the Board meets the four criteria from the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2. Did this meet the requirements for policy development?

2.1. The date of this decision, September 25th, 2000
2.2. This would limit the policy development requirements to Section 3. NOTICE AND COMMENT PROVISIONS.

2.2.1. (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;
2.2.2. (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and
2.2.3. (iii) hold a public forum at which the proposed policy would be discussed.

2.3. Bylaws in effect at the time (http://www.icann.org/en/general/archive-bylaws/bylaws-16jul00.htm) noted that:

2.3.1. The DNSO shall advise the Board with respect to policy issues relating to the Domain Name System.

2.4. Evaluation:

2.4.1. There is a record of a public consultation on this topic http://www.icann.org/en/meetings/cairo2000/cctld-topic.htm

2.4.1.1. There is no published report which synthesises input and generates recommendations based on participation to the consultation to support the policy decision. This is of concern in this case given those affected by the decision, the ccTLDs, overwhelmingly did not support this type of policy and there is no explanation as to why their input was not documented and seemingly ignored.

2.4.2. It is unclear if there was a public forum to allow for discussion of this topic.

2.4.2.1. The draft Sponsorship Agreements were presented in various fora and discussed but again there is no public documentation on the input received.

2.4.3. There is no record of any communications between the Board and the DNSO on this matter that could be considered advice.

2.5. conclusion

2.5.1. This policy decision failed to meet some of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Interesting.

2.6. Notes:

2.6.1. This policy decision was never included in ICP1, and there were never any follow on documents to ICP1.
2.6.2. This decision seems to also have confirmed a shift requiring that delegations only be to organizations and that individuals were no longer admissible as delegees.

Section 3 - Annex 1 - GAC Principles 2000

10. PRINCIPLES CONCERNING THE COMMUNICATION BETWEEN ICANN AND THE DELEGEE

10.1 The communication between ICANN and the delegee should contain ICANN's commitment to:

10.1.1 maintain, or cause to be maintained, a stable, secure, authoritative and publicly available database of relevant information for each ccTLD (see below);
10.1.2 ensure that authoritative and accurate root zone information is generated from such database and ensure that the root servers are operated in stable and secure manner;
10.1.3 maintain, or cause to be maintained, authoritative records and an audit trail regarding ccTLD delegations and records related to these delegations; and
10.1.4 inform the delegee in a timely manner of any changes to ICANN's contact information.

10.2 The communication between ICANN and the delegee should contain the delegee's commitment to:

10.2.1 cause to be operated and maintained in a stable and secure manner the authoritative primary and secondary nameservers for the ccTLD, adequate to resolve names within the ccTLD for users throughout the Internet, and any sub-domains over which they retain administrative authority, and ensure that the zone file and accurate and up-to-date registration data is continuously available to ICANN for purposes of verifying and ensuring the operational stability of the ccTLD only;
10.2.2 inform ICANN in a timely manner of any changes to the ccTLD's contact information held by ICANN;
10.2.3 ensure the safety and integrity of the registry database, including the establishment of a data escrow or mirror site policy for the registry data managed by the delegate. The escrow agent or mirror site should be mutually approved by the relevant government or public authority and the delegee and should not be under the control of the delegee;
10.2.4 ensure the transfer of all relevant DNS data to a nominated replacement, if, for any reason, a reassignment to a new delegee is necessary;
10.2.5 abide by ICANN developed policies concerning: interoperability of the ccTLD with other parts of the DNS and Internet; operational capabilities and performance of the ccTLD operator; and the obtaining and maintenance of, and public access to, accurate and up-to-date contact information for domain name registrants; and
10.2.6 ensure the payment of its contribution to ICANN's cost of operation in accordance with an equitable scale, based on ICANN's total funding requirements (including reserves), developed by ICANN on the basis of consensus.

Section 4

.AU Redelegation

September 10th, 2001

September 10th, 2001 – .AU Redelegation

+ICANN Board Resolutions 20010910 (September 10th 2001, .AU)

Resolved [01.87] that the President is authorized to enter on behalf of ICANN the ccTLD Sponsorship Agreement for .au as posted on the ICANN website, along with any minor corrections or adjustments as appropriate;

Resolved [01.88] that, upon signature of the agreement, the President is authorized to take such actions as appropriate to implement the agreement.

Similar decisions were made for a number of other ccTLD redelegations including:

- .JP April 2002
- .BI May 2002 (MOU as opposed to a Sponsorship Agreement, escrow waved)
- .MW June 2002 (MOU)
- .SD November 2002
- .LA December 2002 (MOU)
- .KE December 2002
- .AF January 2003 (MOU)
- .TW March 2003
- .UZ March 2003
- .KY June 2003
- .PW June 2003
- .TJ June 2003 (agreement missing from archives)
- .MD December 2003 (sponsoring organisations only – new language) *
- .HT January 2004 (agreement missing from archives)
- .EU March 2005

The .AU decision will be analyzed as an example of a Sponsorship agreement decision.

ICANN Board Resolutions 20010910 (September 10th 2001, .AU)

Resolved [01.87] that the President is authorized to enter on behalf of ICANN the ccTLD Sponsorship Agreement for .au as posted on the ICANN website, along with any minor corrections or adjustments as appropriate;

Resolved [01.88] that, upon signature of the agreement, the President is authorized to take such actions as appropriate to implement the agreement.

1. Change of policy or application of policy?

   1.1. The only relevant policy statement is ICANN Board decision of September 25th 2000.

       1.1.1. It is further RESOLVED [00.75] that in view of the state of ongoing discussions directed toward reaching stable and appropriate agreements between ICANN and the ccTLD organizations, delegation of additional

ccTLDs should be finalized only upon achievement of stable and appropriate agreements between ICANN and the ccTLD organization, in a form approved by the Board.

1.2. Evaluation:

    1.2.1. This is a decision by the Board concerning the delegation of a single ccTLD.

    1.2.2. The September 25th 2000 policy decision by the Board covers this case.

    1.2.3. This Board decision is specific to a given ccTLD, .AU.

1.3. Conclusion

    1.3.1. This Board decision does not meet the criteria from the decision tree to classify it as a change in policy. This supports the DRDWG classifying this as an application of policy.

2. Policy Application Issues

2.1. This decision was made on September 10th 2001

2.2. In what context should these issues be considered?

    2.2.1.1. There were no directives in the Bylaws at this time concerning how the Board should apply policies.

2.3. Evaluation:

    2.3.1. All of the critical elements of the decision being considered are clearly and directly supported by the policy or policies that are applicable

2.4. Conclusion

    2.4.1. This application of policy met all of the requirements of the applicable policy or policies. This supports the DRDWG classifying it as Possibly Interesting.

2.5. Related Issues

    2.5.1. This decision can be classified as the first redelegation that was not approved by the existing administrative contact under ICP1 (also known as a Forced Redelegation). The DRDWG considered this significant and worthy of formal analysis under this framework.

    2.5.2. As the first Sponsorship Agreement approved by the Board there is the issue of no longer allowing individuals to be the delegees of a ccTLD. The DRDWG considered this significant and worthy of formal analysis under this framework.

Section 5

Redelegation without Admin. Contact Support

September 10th, 2001

Resolved [01.87] that the President is authorized to enter on behalf of ICANN the ccTLD Sponsorship Agreement for .au as posted on the ICANN website, along with any minor corrections or adjustments as appropriate;

Resolved [01.88] that, upon signature of the agreement, the President is authorized to take such actions as appropriate to implement the agreement.

The element being analyzed in this decision is related to the redelegation of the .au domain without IANA having received formal approval from the existing administrative contact.

1. Change of policy or application of policy?

   1.1. Applicable policies and facts:

      1.1.1. RFC1591 clearly allows for redelegation without the consent of the current administrative contact for several reasons:

         1.1.1.1. "4) ... The IANA tries to have any contending parties reach agreement among themselves, and generally takes no action to change things unless all the contending parties agree; only in cases where the designated manager has substantially miss-behaved would the IANA step in." (given the options available to IANA to "step in" this would seem to clearly indicate that the ultimate step for IANA would be a redelegation without the approval of the current administrative contact).

         1.1.1.2. "5) The designated manager must do a satisfactory job of operating the DNS service for the domain.....In cases when there are persistent problems with the proper operation of the domain, the delegation may be revoked, and possibly delegated to another designated manager."

         1.1.1.3. CCTLD News Memo #1 (23 October 1997) - "The IANA takes the desires of the government of the country very seriously, and will take them as a major consideration in any transition discussion.....On a few occasions, the parties involved have not been able to reach an agreement and the IANA has been required to resolve the matter. This is usually a long drawn out process, leaving at least one party unhappy, so it is far better when the parties can reach an agreement among themselves." (clearly referring to a potential for redelegation without administrative contact support.

      1.1.2. ICP1 clearly allows for redelegation without the consent of the current administrative contact for several reasons:

         1.1.2.1. (e) Transfers and Disputes over Delegations. For transfer of TLD management from one organization to another, the higher-level domain manager (the IANA in the case of TLDs), must receive

communications from both the old organization and the new organization that assure the IANA that the transfer is mutually agreed, and that the proposed new manager understands its responsibilities. It is also very helpful for the IANA to receive communications from other parties that may be concerned or affected by the transfer. In the event of a conflict over designation of a TLD manager, the IANA tries to have conflicting parties reach agreement among themselves and generally takes no action unless all contending parties agree. On a few occasions, the parties involved in proposed delegations or transfers have not been able to reach an agreement and the IANA has been required to resolve the matter. This is usually a long drawn out process, leaving at least one party unhappy, so it is far better when the parties can reach an agreement among themselves. It is appropriate for interested parties to have a voice in the selection of the designated manager.

1.1.2.2.   (f) Revocation of TLD Delegation. In cases where there is misconduct, or violation of the policies set forth in this document and RFC 1591, or persistent, recurring problems with the proper operation of a domain, the IANA reserves the right to revoke and to redelegate a Top Level Domain to another manager.

1.1.3. The GAC Principles 2000 have the following relevant sections

1.1.3.1.   7.2 Notwithstanding the urgent need for a communication-based regime for ccTLD designation, delegation and administration, in the absence of such communication between the relevant government or public authority and the administrator of the ccTLD, ICANN should, upon the tendering of evidence by such government or public authority that the administrator does not have the support of the relevant local community and of the relevant government or public authority, or has breached and failed to remedy other material provisions of RFC 1591, act with the utmost promptness to reassign the delegation in coordination with the relevant government or public authority.

1.2. Evaluation:

1.2.1. The Working Group members are still evaluating this item, and are not yet in a position to draw a conclusion at this stage.

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Section 6

Not allowing individuals as delegees for ccTLDs

September 10th, 2001

September 10th, 2001 – Not allowing individuals as delegees for ccTLDs

Resolved [01.87] that the President is authorized to enter on behalf of ICANN the ccTLD Sponsorship Agreement for .au as posted on the ICANN website, along with any minor corrections or adjustments as appropriate;

Resolved [01.88] that, upon signature of the agreement, the President is authorized to take such actions as appropriate to implement the agreement.

The element being analyzed in this decision is related to the exclusion of individuals as delegees for ccTLDs.

1. Change of policy or application of policy?

    1.1. Applicable policies and facts:

        1.1.1. There is historical documentation of IANA of allowing delegations of ccTLDs to individuals.
        1.1.2. RFC1591 was silent on this matter.
        1.1.3. ICP1 copied the language from RFC1591 in this matter and is also silent on it.
        1.1.4. The GAC Principles (2000) obviously recognize that delegees can be individuals (Definitions) but is silent on if they can be going forward.
        1.1.5. The initial version of the model Sponsorship Agreement from ICANN dated September 2nd, 2001 clearly indicates that delegations can only be to organizations (http://web.archive.org/web/20020201225356/www.icann.org/cctlds/model-tscsa-02sep01.htm)
        1.1.6. No delegations or redelegations were made to individuals following the .AU redelegation.
        1.1.7. The public IANA report for the .BI redelegation of July 16th, 2002 (http://www.iana.org/reports/2002/bi-report-16jul02.html) adds new language further supporting this policy shift:

            1.1.7.1.   The shifting of ccTLD delegations from individuals that have been designated informally as administrative and technical contacts to organizations operating under written agreements or memoranda of understanding is a positive step toward the stable and professional operation of ccTLDs in the public interest. As the Internet becomes increasingly important to global society, it is important that a framework of accountability be established for the operation of all top-level domains, both to promote the global interoperability of the domain-name system and to ensure that the interests of local Internet communities are well-served.

    1.2. Evaluation:

1.2.1. This is an implicit decision by the Board concerning the delegation of ccTLDs.

1.2.2. The core elements of this decision are not covered by any existing policies.

1.2.2.1. The September 25th 2000 policy decision by the Board reads: "It is further RESOLVED [00.75] that in view of the state of ongoing discussions directed toward reaching stable and appropriate agreements between ICANN and the ccTLD organizations, delegation of additional ccTLDs should be finalized only upon achievement of stable and appropriate agreements between ICANN and the ccTLD organization, in a form approved by the Board."

1.2.2.1.1. The use of the word "organizations" in this context is unclear given RFC1591 used the terms "manager", "authorities" and "organizations" interchangeably. This would then support the notion that the use of the term "organizations" in the resolution can be interpreted as not representing a change.

1.2.2.1.2. ICP1 uses these terms in a similar fashion without any indication that it should be interpreted as limitative.

1.2.3. The decision will generate noticeable change. Removing the entire class of individuals from being delegees is significant.

1.2.4. This Board decision is not specific to a given ccTLD but to all that qualify going forward.

1.3. Conclusion

1.3.1. This implicit decision by the Board meets the four criteria from the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2. Did this meet the requirements for policy development?

2.1. The date of this decision, September 10th 2001, would limit the policy development requirements to Section 3. NOTICE AND COMMENT PROVISIONS.

2.1.1. (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;

2.1.2. (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and

2.1.3. (iii) hold a public forum at which the proposed policy would be discussed.

2.2. Evaluation:

2.2.1. This was an implicit change of policy that was not communicated to the community as such and would fail the first, and critical requirement, of the NOTICE AND COMMENT PROVISIONS.

2.2.2. The initial version of the model Sponsorship Agreement from ICANN dated September 2nd, 2001 was posted on a part of the ICANN website for comments (http://web.archive.org/web/20020201225356/www.icann.org/cctlds/model-tscsa-02sep01.htm) as well as the follow on versions:

2.2.3. Model ccTLD Sponsorship Agreement—Triangular Situation, second version (16 December 2001). This version reflects improvements to the model developed in the course of completing the .au ccTLD Sponsorship Agreement and subsequent discussions with GAC representatives and ccTLD managers. Changes are in Sections 4.5.1, 6.3, and 6.14. (http://web.archive.org/web/20020223153303/www.icann.org/cctlds/model-tscsa-16dec01.htm)

2.2.4. Model ccTLD Sponsorship Agreement—Triangular Situation, third version (31 January 2002). This version reflects improvements to the model developed in the course of continuing discussions with ccTLD managers and governmental representatives. Changes are in Sections 4.1 and 4.6. (http://web.archive.org/web/20020228175005/www.icann.org/cctlds/model-tscsa-31jan02.htm)

2.2.5. There is an extremely limited official record of comments received.

2.3. Conclusion

2.3.1. This policy decision failed to meet some of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Interesting.

Section 7

.US Redelegation Decision

November 29th, 2001

.US Redelegation, November 19th, 2001

 Redelegation without ICANN recommendation.

From http://www.icann.org/en/announcements/announcement-19nov01.htm (the only public documentation on this subject on the ICANN website) :

> *Redelegation of .us Country-Code Top-Level Domain*
>
> *19 November 2001*
>
> *After a long governmental procurement process, on Friday, 26 October 2001, the United States Government entered an agreement with NeuStar, Inc. to provide registry services for the .us country-code top-level domain (ccTLD), replacing VeriSign, Inc. Consistent with this change in contracted operators, on Friday, 16 November 2001, the .us ccTLD was redelegated from VeriSign to NeuStar.*
>
> *This redelegation occurred before the completion of the normal IANA requirements. The United States Government informed ICANN on 16 November 2001 that, because of complexities of U.S. procurement laws, it was not able to extend the existing arrangements with VeriSign nor complete the necessary three-way set of communications among itself, ICANN, and NeuStar. This presented a peculiar set of circumstances: ICANN was faced with the choice of (1) either authorizing a redelegation, or (2) creating a situation where the event would have occurred regardless but there would be inconsistent data in the IANA database. Given ICANN's primary mission focus on stability (and security as part of achieving stability), ICANN authorized an emergency redelegation prior to an appropriate contract.*
>
> *All parties involved are committed to complete these contractual and other arrangements as soon as practicable following the end of the protest period (regarding the NeuStar contract) that is allowed for by U.S. law, this apparently being the earliest opportunity that U.S. law allows the U.S. Government to participate in contract negotiations. In its contract with NeuStar, the United States requires NeuStar to abide by the GAC principles (which require a binding written communication with ICANN), and has so committed to ICANN directly.*
>
> *A full IANA report will be posted as soon as it is complete.*

Several points are of interest to the DRDWG:

- *"ICANN authorized an emergency redelegation prior to an appropriate contract.":*

    o It is unclear how ICANN authorized this given there is no documented Board decision authorizing a redelegation.

    o RFC1591, ICP1 nor the GAC Principles have any mention of an "Emergency Redelegation".

- "*All parties involved are committed to complete these contractual and other arrangements as soon as practicable*":

    o No such agreement was ever signed for this redelegation.

- "*A full IANA report will be posted as soon as it is complete.*":

    o There was no IANA report produced which was posted.

- Considering these facts the DRDWG is supported in classifying this as Significantly Interesting.
- The USG did publish a report on the .US redelegation which can be found at : http://www.itu.int/itudoc/itu-t/workshop/cctld/cctld037.html and is included as Annex 1 to this section.

Section 7 - Annex 1- .US re-delegation case study by USG

INTERNATIONAL TELECOMMUNICATION
UNION
**TELECOMMUNICATION
STANDARDIZATION SECTOR**
STUDY PERIOD 2001-2004

ccTLD Doc 37

Original: English

Workshop on Member States'
experiences with ccTLD
Geneva, 3-4 March 2003

DOCUMENT FOR ccTLD WORKSHOP

Source:	United States Government NTIA/DOC
Title:	.us re-delegation case study

Introduction

At the ICANN Government Advisory Committee (GAC) inter-sessional meeting in Canberra, Australia, a number of representatives, including the U.S. representatives agreed to compose and share an outline describing the events surrounding the re-delegation of their respective Country Code Top Level Domains (ccTLDs). This document outlines the re-delegation process of the .us domain corresponding to the United States of America.

Background

The Historic .us domain Structure and Administration

In 1992, the National Science Foundation (NSF) entered into a cooperative agreement with Network Solutions Inc. (NSI) to provide registry and registrar services for generic top level domains, including the .com, .net, .org, .gov, and .edu domains, as well as the .us domain. In 1993, NSI provided funding to the University of Southern California's Information Sciences Institute (USC/ISI) to serve as the .us registrar. USC/ISI continued in this role through September 2000.

Dr. Jonathan B. Postel of USC/ISI originally administered the .us domain as a locality based hierarchy in which second-level domain space was allocated to states, U.S. territories and special purposes as described in the Internet Engineering Task Force's (IETF) RFC 1480.[3] The .us domain was further subdivided into localities and other functional designations and became a widely distributed registry with over 11,000

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[3] For example, the web site www.co.arlington.va.us corresponds to the Official Web Site of Arlington County, Virginia. The second level is dedicated to the state, the third level to the locality, and the fourth to the type of entity in the county. As described in the RFC 1480: The US Domain hierarchy is based on political geography. The basic name space under US is the state name space, then the "locality" name space (like a city, or county), then organization or computer name and so on.

domain delegations to over 800 individuals and entities. These delegated managers maintained a registry and provided registration services for commercial, educational, and governmental entities in the space. Under this system, the .us domain was generally used by U.S. state and local governments, although some commercial names were assigned. Where registration for a locality had not been delegated, Dr. Postel served as the registrar.

The Department of Commerce's Role in the Development of Policy for the .us domain
On July 1, 1997, as part of the *Framework for Global Electronic Commerce*, the President directed the Secretary of Commerce to privatize management of certain technical aspects of the Internet domain name system (DNS) in a manner that would increase competition and facilitate international participation in DNS management.[4] In response to this directive, the
Department of Commerce, through the National Telecommunications and Information Administration (NTIA), began a process of gathering public comments to develop the U.S. Government's policy regarding privatization of certain technical aspects of the DNS, including a commitment to further explore and seek public comment about the evolution of the .us domain.[5] In September 1998, NSF transferred its cooperative agreement with NSI to the Department to permit a ramp down of the agreement as part of the privatization process.[6]
In a policy development process paralleling the Department's privatization efforts, NTIA began an extensive outreach effort to the U.S. Internet stakeholder community on the expansion and future administration of the .us domain, including an initial request for public comment in August 1998.[7] Early the next year, NTIA hosted a public meeting

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[4] *See A Framework for Global Electronic Commerce* (July 1, 1997) (available at http://www.ta.doc.gov/digeconomy/framewrk.htm).

[5] *See Improvement of Technical Management of Internet Names and Addresses*, Proposed Rule and Request for Public Comment, National Telecommunications and Information Administration, Department of Commerce, 63
Fed. Reg. 8825 (Feb. 20, 1998) (available at
http://www.ntia.doc.gov/ntiahome/domainname/domainname130.htm*); Management of Internet Names and Addresses*, Statement of Policy, National Telecommunications and
Information Administration, Department of Commerce, 63 Fed. Reg. 31741 (June 10, 1998) (available at http://www.ntia.doc.gov/ntiahome/domainname/domainhome.htm)

[6] During the policy development process and the later U.S. Government procurement process, NSI continued to provide registry and registrar services for the.us domain through its arrangement with USC/ISI until September 2000 and then directly until November 2001. See Amendment 19 to Cooperative Agreement NCR-9218742 (available at http://www.icann.org/nsi/coopagmt-amend19-04nov99.htm) and Amendment 21 to Cooperative Agreement NCR-9218742 (available at
http://www.ntia.doc.gov/ntiahome/domainname/agreements/amendment21.htm).

[7] *See Enhancement of the .us Domain Space*, Notice, Request for Comments, National Telecommunications and
Information Administration, Department of Commerce, 63 Fed. Reg. 41547 (Aug. 4, 1998) (available at http://www.ntia.doc.gov/ntiahome/domainname/usrfc/dotusrfc.htm). The comment period was extended to October 5, 1998, to afford interested parties a full opportunity to address the issues raised in the request. *See*
Extension of Comment Period, National Telecommunications and Information Administration, Department of
Commerce, 63 Fed. Reg. 45800 (Aug. 24, 1998) (available at
http://www.ntia.doc.gov/ntiahome/domainname/usrfc/dotusext.htm).

regarding the future management and administration of the .us domain with approximately 60 participants, including the then-current usTLD Administrator; then-current .us registrars; educators; representatives of the technical, public interest, and business communities; and federal, state and foreign government officials.[8] Afterwards, NTIA established an open electronic mailing list to facilitate further public discussions of the issues.[9]

Through this public outreach process, NTIA learned that the distributed registration model developed for the .us domain afforded scalable registration services and opportunities for commercial entities to provide name registration services. However, because of the relative lack of public awareness about the availability of .us domain domain names and its deeply hierarchical and somewhat cumbersome structure, the .us domain had not attracted a high level of domain name registration activity and remained under-populated in comparison with other ccTLDs. Some commentators suggested that the general absence of non-locality based registration space in the .us domain contributed to the perceived overcrowding in the generic .com, .net, and .org top level domains. There was general consensus in the U.S. Internet stakeholder community that opening the .us domain to direct second-level domain registrations would increase the attractiveness of the space to most consumers.

In an effort to develop a more concrete framework for obtaining new services for the .us domain identified during the public comment process, NTIA prepared a draft Statement of Work to be incorporated in a request for proposal for management and administration of the .us domain. This draft Statement of Work was also subject to public comment and amended accordingly.[10] The Department then began a competitive procurement process, which resulted in the award of a contract to NeuStar, Inc. (NeuStar) for the provision of administrative and technical services for the .us domain.[11]

The .us Contract

The Department awarded NeuStar a four-year contract (with two one-year, optional extensions) that sets forth the terms for the technical management of .us and a number of enhanced services for .us consumers. In the contract, the Department of Commerce outlines the U.S. Government's objectives for the .us domain:

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[8] *See Enhancement of the .us Domain Space, Notification of Public Meeting*, Notice, National Telecommunications and Information Administration, Department of Commerce, 64 Fed. Reg. 6633 (Feb. 10, 1999). The agenda for that meeting is available at http://www.ntia.doc.gov//ntiahome/domainname/dotusagenda.htm.

[9] *See Enhancement of the .us Domain Space, Notification of Open Electronic Mailing List for Public Discussions Regarding the Future Management and Administration of the .us Domain Space*, Notice, National Telecommunications and Information Administration, Department of Commerce, 64 Fed. Reg. 26365 (May 14, 1999) (available at http://www.ntia.doc.gov/ntiahome/domainname/usrfc/dotuslistfedreg51099.htm)

[10] *Management and Administration of the .us Domain Space*, Notice, Request for Public Comment, National Telecommunications and Information Administration, U.S. Department of Commerce, 65 Fed. Reg. 50964 (Aug. 22, 2000) (available at http://www.ntia.doc.gov/ntiahome/domainname/usrfc2/dotusrfc2.htm).

[11] A copy of the competitive Request for Proposal and Contract award are available on NTIA's web site at http://www.ntia.doc.gov/ntiahome/domainname/usca/index.html.

- To ensure that the procedures and a framework of accountability for the delegation and the administration of the .us domain evolve into a more robust, certain, and reliable system.

- To promote increased use of the .us domain by the U.S. Internet community, (including small businesses, consumers, Internet users, not-for-profit organizations, and local governments (i.e., state, city, and county), among others, with residence or a bona fide presence in the United States through introduction of enhanced services, dissemination of information through advertising and/or other appropriate mechanisms, and simplification of registration services including direct registration.

- To create a centrally administered and efficiently managed structure that ensures both registrant/consumer confidence and infrastructure stability through coordination of delegations as well as other appropriate functions.

- To create a stable, flexible, and balanced environment within the .us domain that is conducive to innovation and that will meet the future demands of potential registrants.

- To ensure continued stability of the domain name systems as a whole and the .us domain, particularly throughout the transition period from the current management structure into the new structure developed and maintained under the contract.

- To manage the .us domain consistent with the Internet Corporation for Assigned Names and Numbers' (ICANN) technical management of the DNS.

- To allow for the adequate protection of intellectual property in the .us domain.

- To establish and maintain consistent communication between the Department, the Contractor and ICANN. This includes representation of the .us domain in the ICANN ccTLD constituency and contribution to ICANN's operating costs as apportioned to the .us domain through the ICANN budget process.

- To promote robust competition within the .us domain and in particular registration services that will lead to greater choice, innovation, and better services for users.

The Contractor is required to be incorporated in the United States, possess and maintain throughout the performance of the contract a physical address in the country, and conduct all primary registry services in the United States. The Contractor is precluded from charging the U.S. Government for the .us domain services, but is permitted to establish and collect reasonable fees from third parties for performance of the contract requirements, after approval by the U.S. Government.

The contract also requires that the Contractor perform the following requirements:

(1)   Core Registry Functions, including provision of all systems, software, hardware, facilities, infrastructure, and operation for the following services: operation and maintenance of the primary, authoritative server for the .us domain; the operations and/ or administration of a constellation of secondary servers for the .us domain the compilation, generation and propagation of the .us domain zone

file(s); the maintenance of an accurate and up-to-date database of .us domain sub-delegation managers; the establishment of a data escrow for .us domain zone file and domain name registration information, including chain of registration data; the compliance with applicable Internet Engineering Task Force and applicable ICANN policies for these functions; and the promotion of awareness and registration in the .us domain, including maintaining the website with up-to-date policy and registration information for the .us domain.

(2)   Core Policy Requirements, including implementation of a United States nexus requirement, a uniform domain dispute resolution procedure, and a sunrise policy; adoption of NTIA approved ICANN policies pertaining to open ccTLD's, and conformance with the GAC's "Principles for the Delegation and Administration of Country-Code Top Level Domains" (GAC Principles).

(3)   Locality-based .us domain Structure Functions, including service for existing delegees and registrants and for undelegated third level sub-domains, modernization of locality-based .us domain processes, coordination with existing locality-based .us TLD users, an investigation of compliance with existing locality-based .us domain policies, and development of a database of .us domain delegated Managers and a registrant WHOIS database.

(4)   Expanded .us domain Space Function, including the development and implementation of a shared registration system, an accreditation system of .us domain registrars, a technical certification of such registrars, a WHOIS database, and a community outreach plan. The Contractor is prohibited from serving as a registrar in the .us domain.

Re-Delegation

Consistent with GAC Principles, the Department of Commerce took a number of steps to ensure the continued stable operation of the .us domain during the transition from NSI/VeriSign, Inc. (VeriSign) to NeuStar.[12] As noted above, the underlying contract for management of the .us domain commits NeuStar to manage the .us domain in a manner consistent with not only the GAC Principles, but also ICANN's technical management of the domain name system. This commitment provides a framework for an arrangement between ICANN and NeuStar as contemplated by section V.C.6 of the Memorandum of Understanding between the United States Department of Commerce and ICANN, as amended by Amendment 2. The Department notified ICANN about the contract award to NeuStar for the management of the .us domain. Next, the former administrator of the .us domain, VeriSign, contacted ICANN using the Internet Assigned Numbers Authority (IANA) process to propose changing the technical and administrative contacts of the .us domain to the successor contractor, NeuStar. VeriSign provided transition plans to the IANA to move the name servers, and at the same time, NeuStar provided ICANN with the appropriate NeuStar contacts for assuming the technical, operational, and administrative operations of the .usTLD. After reviewing the transition plan, ICANN transmitted a recommendation to the Department to approve the redelegation. The

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[12] In June 2000, VeriSign, Inc. and Network Solutions merged. As a result, "NSI" refers to Network Solutions, Inc., a wholly owned subsidiary of VeriSign, Inc..

Department in turn authorized VeriSign to update the authoritative root zone file to effect the redelegation. VeriSign and NeuStar completed the technical transition as outlined in the transition plan. The final stages of the transition took place during November 2001.

Funding

The Contractor is precluded from charging the U.S. Government for the .us domain services, but is permitted to establish and collect fees from third parties for performance of the requirements of this purchase order, such fees to be reasonable and approved by the U.S. Government.

Changes in .us Structure Since Re-Delegation

Since April 2002, .us registrations have been available at the second level.

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Section 8

.LY Redelegation Decision

June 9th, 2004

+ICANN Board Resolution 20040629 (June 29th 2004, .LY)

Resolved [04.48], the President is permitted to allow the provisional redelegation of the .ly domain to GPTC and Mr. Marwan Maghur, until such time as a full redelegation may be arranged.

1. Change of policy or application of policy?

    1.1. Applicable policies and facts:

        1.1.1. RFC1591 does not have any mention of Provisional Redelegations.
        1.1.2. ICP1 does not have any mention of Provisional Redelegations.
        1.1.3. The GAC Principles (2005) do not mention Provisional Redelegations.
        1.1.4. There are no other documented policy decisions by the Board with regard to Provisional Redelegations.

    1.2. Evaluation:

        1.2.1. This is a decision by the Board concerning the delegation of a single ccTLD.
        1.2.2. The core element of this decision is not covered by an existing policy:
        1.2.3. The decision could generate noticeable changes.

            1.2.3.1. The redelegation request did not meet the stated requirements and yet the domain was redelegated (the difference between redelegation and provisional redelegation is academic at best).
            1.2.3.2. The only condition for this Provisional Redelegation is that it stand ", until such time as a full redelegation may be arranged".

    1.3. Conclusion

        1.3.1. This explicit decision by the Board meets the four criteria from the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2. Did this meet the requirements for policy development?

    2.1. The date of this decision, June 29th 2004, makes it subject to all the current requirements for policy development:

        2.1.1. Notice:

            2.1.1.1. (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;

      2.1.1.2.   (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and

      2.1.1.3.   (iii) hold a public forum at which the proposed policy would be discussed.

    2.1.2. Core Values

      2.1.2.1.   4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.

      2.1.2.2.   7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.

      2.1.2.3.   9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

    2.1.3. ccNSO rules for developing policies for ccTLDs

      2.1.3.1.   Annex B and C clearly define that in most cases policy affecting ccTLDs can only be developed by the ccNSO via the PDP.

2.2. Evaluation:

    2.2.1. There is no record of a ccNSO PDP on this subject or any communication between the ccNSO and the Board on this matter.

    2.2.2. There is no record of any type of public consultation on this policy.

    2.2.3. There is no public record that there was a public forum to allow for discussion of this topic.

    2.2.4. There is no record of ICANN seeking any broad and informed participation.

    2.2.5. There was no policy development process.

    2.2.6. There is no record of obtaining any informed input from those entities most affected – the ccTLDs.

    2.2.7. There is no record of an IANA Report to support the decision.

2.3. Conclusion

    2.3.1. This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Significantly Interesting.

2.4. Note: This seems to be the first documented case of a Board decision with regard to a ccTLD redelegation being completed without an IANA Report except for the

.US decision(?) of November 19th, 2001 which can be considered an exception. This is difficult to fully confirm given there are no Board minutes with regard to this decision.

Section 9

.EU Delegation

March 21st, 2005

DELEGATIONS - Decisions of the ICANN Board which are relevant to the work of the DRDWG and directly related to delegations

 +ICANN Board Minutes 20050321 (March 21st 2005, .EU)

Resolved [05.15] the President and the General Counsel are authorized to enter into an agreement with EURid and to complete the delegation of .EU to EURid.

1. Change of policy or application of policy?

    1.1. Applicable Policies and Facts

        1.1.1. .EU is only listed in the Exceptionally Reserved list of ISO3166-1
        1.1.2. The ISO3166-1 Exceptionally Reserved list is not covered by RFC1591, ICP1 or the GAC Principles 2000 (GAC Principles 2005 were published in April 2005 after this decision. The amendments to the 2000 version did not include anything related to ISO 3166-1).
        1.1.3. The Board decision of September 25th 2000 created a new policy allowing such names to be registered as ccTLDs.

    1.2. Evaluation:

        1.2.1. This is a decision by the Board concerning the delegation of ccTLD.
        1.2.2. The September 25th 2000 policy decision by the Board covers this case.
        1.2.3. This Board decision is specific to a given ccTLD, .EU.

    1.3. Conclusion

        1.3.1. This Board decision does not meet the criteria from the decision tree to classify it as a change in policy. This supports the DRDWG classifying this as an application of policy.

2. Policy Application Issues

    2.1. In what context should these issues be considered?

        2.1.1. The new ICANN Bylaws is at the end of 2002 following the Evolution and Reform Process (http://www.icann.org/en/general/archive-bylaws/bylaws-15dec02.htm) introduced some relevant language in the Core Values section:

            2.1.1.1. 8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.
            2.1.1.2. 9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

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2.2. Evaluation:

    2.2.1. The relevant policy was adopted September 25th 2000 and reads:

        2.2.1.1.   It is therefore RESOLVED [00.74] that the IANA staff is advised that alpha-2 codes not on the ISO 3166-1 list are delegable as ccTLDs only in cases where the ISO 3166 Maintenance Agency, on its exceptional reservation list, has issued a reservation of the code that covers any application of ISO 3166-1 that needs a coded representation in the name of the country, territory, or area involved;

    2.2.2. The code "EU" has been reserved by the ISO 3166-1 Maintenance Agency exceptional reservation list for the European Union.

    2.2.3. In a communication from EURid to the ICANN's President and CEO, EURid indicated a willingness to enter into a framework of accountability with ICANN and formally requested the delegation of the .EU ccTLD.

2.3. Conclusion

    2.3.1. This application of policy met all of the requirements of the applicable policy or policies. This supports the DRDWG classifying it as Possibly Interesting.

Section 10

.KZ Redelegation

July 28th, 2005

July 28th, 2005 – .KZ Redelegation

+ICANN Board Resolutions 20050728 (July 28th 2005, .KZ)

Resolved (05.69) that the proposed redelegation of the .KZ ccTLD to the Kazakhstan Association of IT Companies is approved.

No sponsorship agreement or MOU was required to complete the redelegation although the September 25th, 2000 policy requiring these was still in effect.

1. Change of policy or application of policy?

1.1. Applicable policies and facts

1.1.1. ICANN Board Minutes 20000925 (September 25th 2000) - It is further RESOLVED [00.75] that in view of the state of ongoing discussions directed toward reaching stable and appropriate agreements between ICANN and the ccTLD organizations, delegation of additional ccTLDs should be finalized only upon achievement of stable and appropriate agreements between ICANN and the ccTLD organization, in a form approved by the Board.

1.1.2. Minutes from the Board meeting where the decision was taken:

1.1.2.1. Michael Palage raised the following three points regarding ccTLD redelegations in general. First, Mr. Palage reinforced the second point in the US Principles on the Internet Domain Name and Addressing System which state that "governments have a legitimate interest in the management of their ccTLDs". Second, Mr. Palage raised a question regarding revisions to the step-by-step guidelines regarding ccTLD redelegations that would remove any confusion regarding the requirement for a ccTLD-ICANN agreement. Third, Mr. Palage stressed the need for ICANN/IANA to move forward expeditiously with the translations of these key documents to help all countries, but particularly developing countries, in this vital task.

1.1.2.2. In response to Michael Palage's comments, ICANN staff noted that ICANN/IANA had already implemented changes to the ccTLD guidelines appearing on the ICANN website to address the concern about the requirement for an agreement. Agreements between ccTLD operators and ICANN are desirable but not necessary to finalize a redelegation.

1.1.3. No other Board decisions concerning the requirement for Sponsorship Agreements or MOUs are documented.

1.2. Evaluation:

1.2.1. Not requiring a Sponsorship Agreement or an MOU is an implicit decision by the Board concerning the redelegation of a ccTLD.

1.2.2. The core elements of this decision are not covered by existing policies.

  1.2.2.1. The September 25th, 2000 decision requires "reaching stable and appropriate agreements between ICANN and the ccTLD organizations"

  1.2.2.2. Since this decision ICANN has required that delegees sign a Sponsorship Agreement or an MOU prior to completing delegation or redelegation requests.

  1.2.2.3. No explanation is provided in any public documentation as to why either of these would no longer be required.

  1.2.2.4. No replacement for Sponsorship Agreements or MOUs is presented.

  1.2.2.5. Given this decision removes the core of the September 25th, 2000 policy decision it is appropriate to consider this decision as a new policy vs the application of existing policies.

 1.2.3. The decision will generate noticeable changes.

  1.2.3.1. No longer requiring either Sponsorship Agreements or MOUs for delegations and redelegations is significant.

 1.2.4. The implicit decision by the Board to no longer require Sponsorship Agreements or MOUs for the redelegation of ccTLDs is precedent setting and generated changes to operational procedures.

1.3. Conclusion

 1.3.1. This implicit decision by the Board meets the four criteria from the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2. Did this meet the requirements for policy development?

2.1. The date of this decision, July 28th 2005, makes it subject to all the current requirements for policy development:

 2.1.1. Notice:

  2.1.1.1. (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;

  2.1.1.2. (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and

  2.1.1.3. (iii) hold a public forum at which the proposed policy would be discussed.

 2.1.2. Core Values

2.1.2.1.   4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.

2.1.2.2.   7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.

2.1.2.3.   9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

2.1.3. ccNSO rules for developing policies for ccTLDs

2.1.3.1.   Annex B and C clearly define that in most cases policy affecting ccTLDs can only be developed by the ccNSO via the PDP.

2.2. Evaluation:

2.2.1. There is no record of a ccNSO PDP on this subject or any communication between the ccNSO and the Board on this matter.

2.2.2. There is no record of any type of public consultation on this policy.

2.2.3. There is no public record that there was a public forum to allow for discussion of this topic.

2.2.4. There is no record of ICANN seeking any broad and informed participation.

2.2.5. There was no policy development process.

2.2.6. There is no record of obtaining any informed input from those entities most affected – the ccTLDs.

2.3. Conclusion

2.3.1. This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Significantly Interesting.

2.3.2. Note: The decision by the Board to ignore its own policy without any explanations, thus implicitly changing policy, should be of concern to all ICANN stakeholders.

2.4. Notes:

2.4.1. As of May 2010 the September 25th, 2000 decision on stable and proper agreements is still in effect.

2.4.2. Every delegation and redelegation since this decision could technically be considered in violation of this policy.

2.4.3. Because of this policy limbo, the issue of those organizations that did sign agreements has seemingly been ignored by ICANN. If these ccTLDs were

redelegated today there would be no requirement for a Sponsorship Agreement or MOU. The fact that this situation has not been addressed with a transition plan to normalize relationships between ICANN and these ccTLDs for almost 5 years is troubling.

2.4.4. IANA changed its requirements for ccTLD redelegations on its web site in August 2005 removing the requirement for Sponsorship Agreements or MOUs without notice or explanation. This is not the first instance of such changes which began with the posting of ICP1. There is no documented requirement that IANA provide any notice to ccTLDs or the ccNSO of any changes to its operating procedures which would affect ccTLDs. This is of interest to the DRDWG.

July 28th, 2005 – .KZ Redelegation

Section 10 - Annex 1 - ICANN Board Resolutions 20050728

Document source: http://www.icann.org/en/minutes/minutes-28jul05.htm

Redelegation of .KZ (Kazakhstan)

Barbara Roseman introduced the resolution. Various Board Members questioned staff about the redelegation and the various facts set out in the IANA report [now published at http://www.iana.org/reports/kz-report-05aug05.pdf] were discussed.

Michael Palage raised the following three points regarding ccTLD redelegations in general. First, Mr. Palage reinforced the second point in the US Principles on the Internet Domain Name and Addressing System which state that "governments have a legitimate interest in the management of their ccTLDs". Second, Mr. Palage raised a question regarding revisions to the step-by-step guidelines regarding ccTLD redelegations that would remove any confusion regarding the requirement for a ccTLD-ICANN agreement. Third, Mr. Palage stressed the need for ICANN/IANA to move forward expeditiously with the translations of these key documents to help all countries, but particularly developing countries, in this vital task.

In response to Michael Palage's comments, ICANN staff noted that ICANN/IANA had already implemented changes to the ccTLD guidelines appearing on the ICANN website to address the concern about the requirement for an agreement. Agreements between ccTLD operators and ICANN are desirable but not necessary to finalize a redelegation.

Following the above and other detailed discussion of the proposed .KZ redelegation, the Following discussion, Hagen Hultzsch moved and Michael Palage seconded the following resolution:

Whereas, the .KZ top-level domain was originally delegated on 19 September 1994.

Whereas, ICANN has received a request for the redelegation of .KZ to the Kazakhstan Association of IT.

Whereas, ICANN has reviewed the request, and has determined that the proposed redelegation would be in the best interests of the local and global Internet communities.

Resolved (05.69) that the proposed redelegation of the .KZ ccTLD to the Kazakhstan Association of IT Companies is approved.

The Board approved the resolution by a vote of 9-0, with two abstentions by Raimundo Beca and Veni Markovski. Mouhamet Diop, Alejandro Pisanty, Njeri Rionge and Peter Dengate Thrush were not present during the vote.

Section 11

.GD Redelegation

July 18th, 2006

July 18th, 2006 – .GD Redelegation

+ICANN Board Minutes 20060718 (July 18th 2006, .GD)

Resolved (06.61), that the proposed redelegation of the .GD ccTLD to the National Telecommunications Regulatory Commission of Grenada is approved**.**

The issue being considered in this decision is the lack of local Internet community support for the decision.

1. Change of policy or application of policy?

    1.1. Applicable Policies and Facts

        1.1.1. .GD is the entry on the ISO3166-1 list for Grenada
        1.1.2. The policies in ICP1 cover redelegations.

    1.2. Evaluation:

        1.2.1. The implicit decision by the Board to not require community support for the redelegation of the .GD domain is directly relevant to the redelegation of ccTLDs because it modifies the core requirements for redelegation.
        1.2.2. Community support in redelegations is covered by existing policies.
        1.2.3. Not requiring local community support would be a noticeable change from previous decisions.
        1.2.4. The implicit decision of not requiring community support could be interpreted as setting a significant precedent.

    1.3. Conclusion

        1.3.1. This implicit Board decision does not meet the criteria from the decision tree to classify it as a change in policy. This supports the DRDWG classifying this as an application of policy.

2. Policy Application Issues

    2.1. Date of the decision is July 18th 2006.
    2.2. In what context should these issues be considered?

        2.2.1. The new ICANN Bylaws is at the end of 2002 following the Evolution and Reform Process (http://www.icann.org/en/general/archive-bylaws/bylaws-15dec02.htm) introduced some relevant language in the Core Values section:

            2.2.1.1.   8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.

2.2.1.2.   9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

2.3. Evaluation:

2.3.1. ICP1 has the following statements "Significantly interested parties in the domain should agree that the proposed TLD manager is the appropriate party."

2.3.2. In its most recent format the IANA Report has the following text "Taking these three documents into consideration, the evaluation of a delegation request involves determining facts that relate to the applicant's capacity to meet the following criteria:"

2.3.2.1.   1.   Operational and technical skills
2.3.2.2.   2.   Operator in country
2.3.2.3.   3.   Equitable treatment
2.3.2.4.   4.   Community/Governmental support

2.3.3. From "Understanding the ccTLD Delegation and Redelegation Procedure" (IANA document dated October 1st, 2007 – this document is still on the IANA web site) we have "2. Documentation showing that the request serves the local interest:"

2.3.3.1.   Crucial to the request are statements of support from the local Internet community. This documentation should provide information demonstrating that the request would be in the interests of the Internet community served by the ccTLD.

2.3.3.2.   Good examples of this documentation include statements from national ISPs and ISP associations, Internet user groups, and Internet Society chapters showing support for the request. Other possibilities include statements from national consortia of electronic commerce providers or trademark and intellectual property holders. It would also be instructive to summarise the usage of Internet in the country, and an explanation on why the statements provided (and the organisations they are from) are representative of the community. If there is disagreement about how the ccTLD is run within the community, explain the circumstances and the different points of view, and why your application is the most appropriate path to serve the Internet community's interests.

2.3.3.3.   Along with the documentation for local support, this part of the application should include a summary of the intended administrative operation of the domain name including, as an example, how names will be added and in what order, removed, how disputes will be resolved.

2.3.4. The interpretation of this requirement has consistently, until this decision, required community support for a redelegation to be approved.

2.3.4.1.1.   An example of this can be found in IANA Report on the Redelegation of the .GS Top-Level Domain, March 7th, 2006 (4 months prior to this decision) which states "Based on the materials submitted and the IANA's evaluation of the circumstances, Project Atlantis qualifies as an appropriate manager for the .GS registry, with support from the South Georgina and the South Sandwich Islands community, including the relevant government.

2.3.4.1.2.   Another example of this can be found in IANA Report on the Redelegation of the .ES Top-Level Domain, August 5th, 2005 (1 year prior to this decision) which states "Based on the materials submitted and the IANA's evaluation of the circumstances, RED.ES qualifies as an appropriate manager for the ES registry, with support from the Internet community in Spain, including the government."

2.3.4.1.3.   Another example of this can be found in IANA Report on the Redelegation of the .NG Top-Level Domain, June 10th, 2004 (2 years prior to this decision) which states "Based on the materials submitted and the IANA's evaluation of the circumstances, NITDA qualifies as an appropriate manager for the .ng registry. It has the support of both the Nigerian Internet community, and the Nigerian Government. As noted above, the government of Nigeria through the Federal Ministry for Science and Technology has formally endorsed NITDA as the appropriate delegee for the .ng registry."

2.3.4.1.4.   Another example of this can be found in IANA Report on the Redelegation of the .PW Top-Level Domain, June 30th, 2003 which states "Based on the materials submitted and the IANA's evaluation of the circumstances, MIDCORP qualifies as an appropriate manager for the .pw registry, with support from the Palau Internet community, including the Palau Government. As noted above, the government of Palau has formally endorsed MIDCORP as the appropriate delegee for the .pw registry.

2.3.4.1.5.   Another example of this can be found in IANA Report on the Redelegation of the .SD Top-Level Domain, December 20th, 2002 which states "Based on the materials submitted and the IANA's evaluation of the circumstances, the Sudan Internet Society appears to be an appropriate and technically competent manager for the .sd registry, with broad support from the Sudan Internet community, including the Sudanese government."

2.3.4.1.6.   In considering the case of the 2003 redelegation of the .MD ccTLD, which also did not include community support, one must

take into account the fact that a US court order to return the control of the domain to Moldova was an overriding factor for ICANN and IANA and as such cannot be considered as precedent setting or similar to the decision being analyzed.

2.3.5. From the public IANA Report on the redelegation of .GD under the heading of "Community/Governmental support"

2.3.5.1. The ICANN Government Advisory Committee Principles observes that the Internet's naming system is "a public resource … administered in the public or common interest." In general, ICANN's GAC recognizes that each government has the ultimate responsibility within its territory for its national public policy objectives, however in the case of a redelegation, this may be tempered by ICANN's responsibility to ensure the Internet DNS continues to provide an effective and interoperable global naming system.

2.3.5.2. The Government has been the initiator of the request, and actively supports the reassignment. The Supporting Organisation is proposed to be an arm of the government, with day-to-day operation outsourced to a competent registry operator.

2.3.6. The other requirements for redelegation seemed to have been met (from the public IANA Report):

2.3.6.1. Operational and technical skills - The operator will be AdamsNames, which has a well established history of performed ccTLD registry operations.

2.3.6.2. Operator in country - The supporting organisation is the National Telecommunications Regulatory Commission of Grenada, with the administrative contact as the Director of that organisation.

2.3.6.3. Equitable treatment - The applicant has made undertakings to IANA that registrations will be performed on a first-come first-served basis that is fair and equitable.

2.3.7. The decision does not respect the requirement that decisions are made by applying documented policies neutrally and objectively, with integrity and fairness.

2.3.8. There is no public record that this decision obtained any input from those entities most affected (ccTLDs).

2.4. Conclusion

2.4.1. This application of policy failed to meet some of the requirements of the applicable policy or policies. This supports the DRDWG classifying it as Interesting.

Section 12

.UM Undelegation

January 16th, 2007

January 16th, 2007 – .UM Undelegation

<u>+</u>ICANN Board Minutes 20070116 (January 16th 2007, .UM)

Resolved (07.04), that the delegation of .UM be removed from the DNS root, and that it be returned to unassigned status.

Note: This was the first removal from the root for an ISO3166-1 code that did not change status.

1. Change of policy or application of policy?

    1.1. Applicable Policies and Facts

        1.1.1. .UM code did not change status in ISO3166-1 at the time of this decision.
        1.1.2. RFC1591 does not have any mention of removing a ccTLD from the root.
        1.1.3. ICP1 does not have any mention of removing a ccTLD from the root.
        1.1.4. The GAC Principles (2005) does not have any mention of removing a ccTLD from the root.
        1.1.5. There are no other documented policy decisions by the Board with regard to removing ccTLDs from the root prior to this point in time.

    1.2. Evaluation:

        1.2.1. This is an explicit decision by the Board concerning the un-delegation of a single ccTLD.
        1.2.2. The core element of this decision is not covered by an existing policy.
        1.2.3. The decision will generate noticeable changes.

            1.2.3.1.   The removal of a ccTLD from the root is one of the most critical operations with regard to ccTLDs. Adding a new policy for doing so should be considered critical.

        1.2.4. This decision applies to a single ccTLD but is clearly precedent setting.

    1.3. Conclusion

        1.3.1. This decision meets the first three criteria of the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2. Did this meet the requirements for policy development?

    2.1. The date of this decision, January 16th 2007, makes it subject to all the current requirements for policy development:

        2.1.1. Notice:

2.1.1.1. (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;

2.1.1.2. (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and

2.1.1.3. (iii) hold a public forum at which the proposed policy would be discussed.

2.1.2. Core Values

2.1.2.1. 4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.

2.1.2.2. 7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.

2.1.2.3. 9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

2.1.3. ccNSO rules for developing policies for ccTLDs

2.1.3.1. Annex B and C clearly define that in most cases policy affecting ccTLDs can only be developed by the ccNSO via the PDP.

2.2. Evaluation:

2.2.1. There is no record of a ccNSO PDP on this subject or any communication between the ccNSO and the Board on this matter.

2.2.2. There is no record of any type of public consultation on this policy or any seeking of broad informed participation.

2.2.3. There is no record that there was a public forum to allow for discussion of this topic.

2.2.4. There is no public record of a policy development process although a policy was defined by setting a precedent.

2.2.5. There is no record informed input was sought or received from those entities most concerned – the ccTLDs.

2.3. Conclusion

2.3.1. This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Significantly Interesting.

Section 12 - Annex 1 - ICANN Board Minutes 20070116

Document source: http://www.icann.org/en/minutes/minutes-17jan07.htm

Revocation of .UM [United States Minor Outlying Islands]

The Chair asked Kim Davies to provide background information on this item. Kim advised that in 1997, management of .UM was delegated to the University of Southern California's Information Sciences Institute. At that time it also operated the IANA function, and the registry was run by ISI staff. However, when ICANN assumed operation of the IANA function, and the .US registry was spun out of ISI, the .UM registry remained at ISI.

He reported that the .UM registry had no usage, and for much of 2006 was a "lame delegation" in the root zone. In October 2006, ISI formally communicated to ICANN that it no longer wished to operate the zone, that it was empty, and that the delegation should be removed. ICANN's view is that this would be an appropriate action, and would not prevent a suitably qualified operator from running .UM in the future if they met all the normal criteria for delegation of a ccTLD.

The Chair said there might be side effects if people are using software that tests for the existence of valid country-code domains. He added that as long as there was widespread notice of the re-delegation, then this should not be an issue.

Paul Twomey pointed out that this would be the first country-code domain to be removed from the root that wasn't the result of ISO 3166 changes caused by a country changing its name or dissolving (such as Zaire and Czechoslovakia). Kim Davies clarified that this would bring the list of undelegated country-codes to five, the others being Montenegro (ME), North Korea (KP), Serbia (RS), and Western Sahara (EH).

Steve Crocker asked whether there were particular difficulties with reinstituting the name, should it be necessary or desirable. David Conrad advised that there were no more difficulties with resurrecting this domain than in other ccTLD delegations.

Paul Twomey pointed out that ICANN already had a consultation process on the revocation of TLDs, however it was clarified that this is a separate matter only involving countries that no longer existed. In this case, UM is still recognized as an official code by the ISO 3166-1 standard.

Following this discussion Susan Crawford moved and Rita Rodin seconded a request for a vote on the following resolution:

Whereas, the .UM top-level domain was originally delegated in December 1997 <http://www.iana.org/root-whois/um.htm>.

Whereas, the currently assigned operator is the University of Southern California's Information Sciences Institute.

Whereas, the .UM domain is not in active use, and the current operator no longer wishes to operate it.

Whereas, ICANN has reviewed the request, and has determined that the returning the domain to unassigned status is the appropriate action to reflect its status.

Recognizing, this would not prohibit future delegation of the domain to another party that meets the regular ccTLD delegation criteria.

Resolved (07.04), that the delegation of .UM be removed from the DNS root, and that it be returned to unassigned status.

The Board approved the resolution by roll call vote 12-0. In addition to the Board Members not present for the call, Steve Goldstein was not available to vote.

Section 13

.YU Redelegation

September 11th, 2007

September 11th, 2007 – .YU Redelegation

+ICANN Board Minutes 20070911 (September 11th, 2007, .ME, .RS, .YU)

Resolved (07.77), that the .YU domain be redelegated to the Serbian National Registry of Internet Domain Names in a temporary caretaker capacity.

1. Change of policy or application of policy?

    1.1. Applicable policies and facts:

        1.1.1. RFC1591 does not have any mention of temporary caretaker Redelegations.
        1.1.2. ICP1 does not have any mention of temporary caretaker Redelegations.
        1.1.3. The GAC Principles (2005) do not mention temporary caretaker Redelegations.
        1.1.4. There are no other documented policy decisions by the Board with regard to temporary caretaker Redelegations.

            1.1.4.1.   The June 29th, 2004 .LY decision for a provisional delegation was meant as a stopgap redelegation while the applicant worked the meet the requirements for a full redelegation. This situation has no similarities with the .YU caretaker redelegation.

    1.2. Evaluation:

        1.2.1. This is an explicit decision by the Board concerning the redelegation of a ccTLD.
        1.2.2. The core element of this decision is not covered by existing policies:

            1.2.2.1.   There is no policy which supports temporary caretaker redelegations.

        1.2.3. The decision could generate noticeable changes.

            1.2.3.1.   The Board minutes clearly indicate that there is an expectation that there be no new registrations in .YU after the delegation of .ME and .RS:

                1.2.3.1.1.   "Steve Goldstein asked if there is any provision in the agreement to restrict new registrations in .YU. Kim Davies advised that he would have to check to be certain, but as soon as new registrations are allowed in .RS and .ME it was his understanding that it would not be possible to register new domains in .YU."

            1.2.3.2.   Having a ccTLD which is not allowed to register domain names is a significant change.

      1.2.4. The decision is precedent setting and could be applied to ccTLDs in a similar situation to .YU.

1.3. Conclusion

      1.3.1. This decision meets the first three criteria of the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2.   Did this meet the requirements for policy development?

   2.1. The date of this decision, September 11th 2007, makes it subject to all the current requirements for policy development:

      2.1.1. Notice:

         2.1.1.1.   (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;
         2.1.1.2.   (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and
         2.1.1.3.   (iii) hold a public forum at which the proposed policy would be discussed.

      2.1.2. Core Values

         2.1.2.1.   4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.
         2.1.2.2.   7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
         2.1.2.3.   9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

      2.1.3. ccNSO rules for developing policies for ccTLDs

         2.1.3.1.   Annex B and C clearly define that in most cases policy affecting ccTLDs can only be developed by the ccNSO via the PDP.

   2.2. Evaluation:

      2.2.1. There is no record of a ccNSO PDP on this subject or any communication between the ccNSO and the Board on this matter.

2.2.2. There is no record of any type of public consultation on this policy.

2.2.3. There is no public record that there was a public forum to allow for discussion of this topic.

2.2.4. There is no record of ICANN seeking any broad and informed participation.

2.2.5. There was no policy development process.

2.2.6. There is no record of obtaining any informed input from those entities most affected – the ccTLDs.

2.3. Conclusion

2.3.1. This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Significantly Interesting.

2.4. Note: The following quote from Director P.D. Thrush in the minutes of the Board meeting is probably relevant to the work of the DRDWG: "Peter Dengate Thrush explained that his reservation was associated with his belief that such policy decisions concerning delegation should rest with the ccNSO as specifically provided under the bylaws. He noted that he has raised this issue on a number of occasions suggesting that this matter should be referred to the ccNSO but to no avail."

Section 13 – Annex 1 - ICANN Board Minutes 20070911

Document source: http://www.icann.org/en/minutes/minutes-11sep07.htm

Delegation of the .ME (Montenegro) Domain
Delegation of the .RS (Serbia) Domain
Redelegation of the .YU (former Yugoslavia) Domain

Kim Davies advised that the delegation of .ME (Montenegro) and .RS (Serbia) and the redelegation of .YU (Yugoslavia) were interrelated. At the time that Serbia and Montenegro became new countries, the ISO 3166-1list was altered to give the two countries individual codes .RS and .ME respectively. To date, the countries covered have been using the .YU domain. The YU code is no longer in the ISO 3166-1 list and has been replaced with .ME and .RS and as such should be decommissioned in a responsible way. The transition plan from .YU to .RS and .ME involves an MOU between the two entities and would see that .YU is assigned to the proposed .RS sponsoring organization, which is effectively the same operator as today. They would act as caretaker for .YU for two years to allow for a stable transition. ICANN's proposed resolution language is consistent with this plan however a three-year transition period is proposed to allow for contingencies. The proposed resolutions support the two new delegations and acknowledge the two parties involved in de-commissioning of the .YU domain, and state it is to be retired in three years time.

In addition to explaining the ICANN evaluation of the delegation applications, the board was also advised of last-minute correspondence IANA had received in relation to the delegation of the .ME domain.

Steve Goldstein asked if there is any provision in the agreement to restrict new registrations in .YU. Kim Davies advised that he would have to check to be certain, but as soon as new registrations are allowed in .RS and .ME it was his understanding that it would not be possible to register new domains in .YU.

Steve Goldstein asked why the preference for a three-year transition rather than two. Kim Davies advised they didn't want to propose something that was too aggressive. The applicants had proposed a two-year transition period, but the Board could consider a different length.

The Chair proposed that the language in the resolution could be changed to be up to and no more than three years.

Steve Crocker acknowledged that some transitions have taken a long time. An additional suggestion would be to ask for regular reports with metrics measuring progress towards the outcome.

Kim Davies noted that the resolution proposed does suggest that the .YU registry report every 6 months to ICANN Staff on progress. The proposed resolution also makes it clear the domain must be removed no later than 2010, which was considered a responsible timeframe that was neither too aggressive, nor unnecessarily prolonged. If the community felt it could transition quicker there is nothing to stop that from happening.

Paul Twomey suggested that the wording be slightly amended asking that they report progress against appropriate metrics.

There were no objections to the suggested amendments.

Dave Wodelet asked if it mattered if they take till 2008, 2009 or even 2010 and the Chair responded that we do want a certain end date.

Kim Davies advised that there is no strong precedent for how long transition will take from one to the other. There have only been a small number of transitions of country codes in the history of ccTLDs. In trying to determine what they considered a reasonable timeframe for transition the closest comparable situation that IANA was aware of is when telephone-numbering systems change. These transitions generally take place in one-to-two years.

The Chair noted that the language proposed by Paul Twomey seems acceptable, an alternative to an extra year would be to stick with two years to 2009 and if the party needs more time they could come back and explain why, which may be the best option. Putting in a two-year timeframe provides them with leverage to help their community to promptly perform the transition. The Chair recommended the alternative on the basis it was made clear to them that if they have a problem with two years they can come back with an explanation to ICANN as to why they need more time.

Susan Crawford noted that she understands the direction and appreciates the conservative approach, but asked what mechanism should be used if the transition moves too slowly.

The Chair reflected that if they come back and have a reasonable explanation, then this should be okay. He believed you would help them with a shorter deadline as they can point to that as a mandate to move ahead and transition to other the domain.

Janis Karklins noted that human nature suggests they will take as much time as they are given for transitioning. He suggested that the resolution should include a point that ICANN Staff should keep the Board informed of the progress of the transition.

In summation, the Chair suggested that the Board approves all three requests, and that ICANN Staff is expected to keep the Board informed on the retirement of .YU domain. Paul Twomey added that they communicate according to appropriate metrics.

Steve Goldstein moved and Vanda Scartezini seconded the following resolution:

Delegation of .ME

Whereas, the .ME top-level domain is the designated country-code for

Montenegro,

Whereas, ICANN has received a request for delegation of .ME to the Government of Montenegro,

Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be in the best interest of the local and global Internet communities,

Resolved (07.75), that the proposed delegation of the .ME domain to the Government of Montenegro is approved.

Delegation of .RS

Whereas, the .RS top-level domain is the designated country-code for Serbia,

Whereas, ICANN has received a request for delegation of .RS to the Serbian National Register of Internet Domain Names,

Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be in the best interest of the local and global Internet communities,

Resolved (07.76), that the proposed delegation of the .RS domain to the Serbian National Register of Internet Domain Names is approved.

Redelegation of .YU

Whereas, the .YU top-level domain is currently used by the citizens of both Serbia and Montenegro,

Whereas, ICANN has delegated the .RS domain for use in Serbia, and the .ME domain for use in Montenegro,

Whereas, the ISO 3166-1 standard has removed the "YU" code, and the ISO 3166 Maintenance Agency recommends its use be discontinued,

Whereas, ICANN is not responsible for deciding what is or is not a country, and adheres to the ISO 3166-1 standard for guidance on when to add, modify and remove country-code top-level domains,

Whereas, there is a transition plan to move registrations in .YU to the new domains .RS and .ME, with the operator of .RS acting as the temporary caretaker of .YU until the transition is complete,

Resolved (07.77), that the .YU domain be redelegated to the Serbian National Registry of Internet Domain Names in a temporary caretaker capacity.

Resolved (07.78), that the Serbian National Registry of Internet Domain Names be instructed to report their progress on decommissioning the .YU domain every six months to ICANN against a relevant set of metrics.

Resolved (07.79), that the Serbian National Registry of Internet Domain Names, and the Government of Montenegro, work to complete the transition from the .YU domain to the .RS and .ME domains, so that it may be removed from the DNS root zone no later than 30 September 2009.

A voice vote was taken of all Board Members present and all three motions were approved by a vote of all members present 13-0, with one abstention from Peter Dengate Thrush.

Peter Dengate Thrush explained that his reservation was associated with his belief that such policy decisions concerning delegation should rest with the ccNSO as specifically provided under the bylaws. He noted that he has raised this issue on a number of occasions suggesting that this matter should be referred to the ccNSO but to no avail.

The Chair noted that these practices have been in existence prior to the formation of the ccNSO, and that if policy is required in this area that the ccNSO work on a policy proposal, that might be properly considered.

Section 14

.YU Retirement (revocation)

September 11th, 2007

September 11th, 2007 – .YU Retirement (revocation)

+ICANN Board Minutes 20070911 (September 11th, 2007, .ME, .RS, .YU)

Resolved (07.78), that the Serbian National Registry of Internet Domain Names be instructed to report their progress on decommissioning the .YU domain every six months to ICANN against a relevant set of metrics.

Resolved (07.79), that the Serbian National Registry of Internet Domain Names, and the Government of Montenegro, work to complete the transition from the .YU domain to the .RS and .ME domains, so that it may be removed from the DNS root zone no later than 30 September 2009.

1. Change of policy or application of policy?

    1.1. Existing policies and facts

        1.1.1. The .YU code was removed from ISO 3166-1 at the time of the decision.
        1.1.2. RFC1591 does not have any mention of removing a ccTLD from the root.
        1.1.3. ICP1 does not have any mention of removing a ccTLD from the root.
        1.1.4. The GAC Principles (2005) does not have any mention of removing a ccTLD from the root.
        1.1.5. There are no other documented policy decisions by the Board with regard to removing ccTLDs from the root because their ISO 3166-1 code was no longer active:

            1.1.5.1.   The .ZR decision from June 20th, 2001 was not the subject of an ICANN Board decision and was deleted at the request of the delegee when it was ready. The IANA Report for this action contains the following text which may be relevant:

                1.1.5.1.1.   When an alpha-2 code for a country is changed on the ISO 3166-1 list, the IANA's historical practice has been to set up a top-level domain with the new code and to delegate it to the same manager as the existing top-level domain, with the expectation that a transition will occur and that the deprecated top-level domain will be deleted once the migration is completed.

            1.1.5.2.   The .UM decision of January 16th 2007 involved a ccTLD that was still on the ISO 3166-1 list and should be considered as an unrelated situation.

    1.2. Evaluation:

        1.2.1. This is an explicit decision by the Board concerning the retirement of a single ccTLD.
        1.2.2. The core elements of this decision are not covered by an existing policy.
        1.2.3. The decision will generate noticeable changes

1.2.3.1.   The removal of a ccTLD from the root is one of the most critical operations with regard to ccTLDs. Adding a new policy for doing so should be considered critical.

1.2.4.   This decision applies to a single ccTLD but is clearly precedent setting.
1.2.5.   The IANA historical practice did not mention any timing or reporting requirements for the retirement of such ccTLDs.

1.3. Conclusion

1.3.1.   This explicit decision by the Board meets the four criteria from the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

2.   Did this meet the requirements for policy development?

2.1. The date of this decision, September 11th 2007, makes it subject to all the current requirements for policy development:

2.1.1.   Notice:

2.1.1.1.   (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;
2.1.1.2.   (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and
2.1.1.3.   (iii) hold a public forum at which the proposed policy would be discussed.

2.1.2.   Core Values

2.1.2.1.   4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.
2.1.2.2.   7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
2.1.2.3.   9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

2.1.3.   ccNSO rules for developing policies for ccTLDs

        2.1.3.1.   Annex B and C clearly define that in most cases policy affecting ccTLDs can only be developed by the ccNSO via the PDP.

2.2. Evaluation:

    2.2.1.   There is no record of a ccNSO PDP on this subject or any communication between the ccNSO and the Board on this matter.

    2.2.2.   There is no record of any type of public consultation on this policy by precedent or any seeking of broad informed participation.

    2.2.3.   There is no record that there was a public forum to allow for discussion of this topic.

    2.2.4.   There is no public record of a policy development process although a policy was defined by setting a precedent.

    2.2.5.   There is no record informed input was sought or received from those entities most concerned – the ccTLDs.

2.3. Conclusion

    2.3.1.   This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Significantly Interesting.

3.   Supporting material:

3.1. Board minutes regarding this decision

    3.1.1.   Of interest in the Board minutes is:

        3.1.1.1.   Peter Dengate Thrush explained that his reservation was associated with his belief that such policy decisions concerning delegation should rest with the ccNSO as specifically provided under the bylaws. He noted that he has raised this issue on a number of occasions suggesting that this matter should be referred to the ccNSO but to no avail. (and the reply from the Chair to this)

        3.1.1.2.   The Chair noted that these practices have been in existence prior to the formation of the ccNSO, and that if policy is required in this area that the ccNSO work on a policy proposal, that might be properly considered.

    3.1.2.   This last statement by the Chair seems to be at odds with the Bylaws of the corporation and is of significant interest to the DRDWG.

September 11th, 2007 – .YU Retirement (revocation)

Section 14 – Annex 1 - ICANN Board Minutes 20070911

Document source: http://www.icann.org/en/minutes/minutes-11sep07.htm

Delegation of the .ME (Montenegro) Domain
Delegation of the .RS (Serbia) Domain
Redelegation of the .YU (former Yugoslavia) Domain

Kim Davies advised that the delegation of .ME (Montenegro) and .RS (Serbia) and the redelegation of .YU (Yugoslavia) were interrelated. At the time that Serbia and Montenegro became new countries, the ISO 3166-1list was altered to give the two countries individual codes .RS and .ME respectively. To date, the countries covered have been using the .YU domain. The YU code is no longer in the ISO 3166-1 list and has been replaced with .ME and .RS and as such should be decommissioned in a responsible way. The transition plan from .YU to .RS and .ME involves an MOU between the two entities and would see that .YU is assigned to the proposed .RS sponsoring organization, which is effectively the same operator as today. They would act as caretaker for .YU for two years to allow for a stable transition. ICANN's proposed resolution language is consistent with this plan however a three-year transition period is proposed to allow for contingencies. The proposed resolutions support the two new delegations and acknowledge the two parties involved in de-commissioning of the .YU domain, and state it is to be retired in three years time.

In addition to explaining the ICANN evaluation of the delegation applications, the board was also advised of last-minute correspondence IANA had received in relation to the delegation of the .ME domain.

Steve Goldstein asked if there is any provision in the agreement to restrict new registrations in .YU. Kim Davies advised that he would have to check to be certain, but as soon as new registrations are allowed in .RS and .ME it was his understanding that it would not be possible to register new domains in .YU.

Steve Goldstein asked why the preference for a three-year transition rather than two. Kim Davies advised they didn't want to propose something that was too aggressive. The applicants had proposed a two-year transition period, but the Board could consider a different length.

The Chair proposed that the language in the resolution could be changed to be up to and no more than three years.

Steve Crocker acknowledged that some transitions have taken a long time. An additional suggestion would be to ask for regular reports with metrics measuring progress towards the outcome.

September 11th, 2007 – .YU Retirement (revocation)

Kim Davies noted that the resolution proposed does suggest that the .YU registry report every 6 months to ICANN Staff on progress. The proposed resolution also makes it clear the domain must be removed no later than 2010, which was considered a responsible timeframe that was neither too aggressive, nor unnecessarily prolonged. If the community felt it could transition quicker there is nothing to stop that from happening.

Paul Twomey suggested that the wording be slightly amended asking that they report progress against appropriate metrics.

There were no objections to the suggested amendments.

Dave Wodelet asked if it mattered if they take till 2008, 2009 or even 2010 and the Chair responded that we do want a certain end date.

Kim Davies advised that there is no strong precedent for how long transition will take from one to the other. There have only been a small number of transitions of country codes in the history of ccTLDs. In trying to determine what they considered a reasonable timeframe for transition the closest comparable situation that IANA was aware of is when telephone-numbering systems change. These transitions generally take place in one-to-two years.

The Chair noted that the language proposed by Paul Twomey seems acceptable, an alternative to an extra year would be to stick with two years to 2009 and if the party needs more time they could come back and explain why, which may be the best option. Putting in a two-year timeframe provides them with leverage to help their community to promptly perform the transition. The Chair recommended the alternative on the basis it was made clear to them that if they have a problem with two years they can come back with an explanation to ICANN as to why they need more time.

Susan Crawford noted that she understands the direction and appreciates the conservative approach, but asked what mechanism should be used if the transition moves too slowly.

The Chair reflected that if they come back and have a reasonable explanation, then this should be okay. He believed you would help them with a shorter deadline as they can point to that as a mandate to move ahead and transition to other the domain.

Janis Karklins noted that human nature suggests they will take as much time as they are given for transitioning. He suggested that the resolution should include a point that ICANN Staff should keep the Board informed of the progress of the transition.

In summation, the Chair suggested that the Board approves all three requests, and that ICANN Staff is expected to keep the Board informed on the retirement of .YU domain. Paul Twomey added that they communicate according to appropriate metrics.

Steve Goldstein moved and Vanda Scartezini seconded the following resolution:

September 11th, 2007 – .YU Retirement (revocation)

Delegation of .ME

Whereas, the .ME top-level domain is the designated country-code for

Montenegro,

Whereas, ICANN has received a request for delegation of .ME to the Government of Montenegro,

Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be in the best interest of the local and global Internet communities,

Resolved (07.75), that the proposed delegation of the .ME domain to the Government of Montenegro is approved.

Delegation of .RS

Whereas, the .RS top-level domain is the designated country-code for Serbia,

Whereas, ICANN has received a request for delegation of .RS to the Serbian National Register of Internet Domain Names,

Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be in the best interest of the local and global Internet communities,

Resolved (07.76), that the proposed delegation of the .RS domain to the Serbian National Register of Internet Domain Names is approved.

Redelegation of .YU

Whereas, the .YU top-level domain is currently used by the citizens of both Serbia and Montenegro,

Whereas, ICANN has delegated the .RS domain for use in Serbia, and the .ME domain for use in Montenegro,

Whereas, the ISO 3166-1 standard has removed the "YU" code, and the ISO 3166 Maintenance Agency recommends its use be discontinued,

Whereas, ICANN is not responsible for deciding what is or is not a country, and adheres to the ISO 3166-1 standard for guidance on when to add, modify and remove country-code top-level domains,

Whereas, there is a transition plan to move registrations in .YU to the new domains .RS and .ME, with the operator of .RS acting as the temporary caretaker of .YU until the transition is complete,

Resolved (07.77), that the .YU domain be redelegated to the Serbian National Registry of Internet Domain Names in a temporary caretaker capacity.

Resolved (07.78), that the Serbian National Registry of Internet Domain Names be instructed to report their progress on decommissioning the .YU domain every six months to ICANN against a relevant set of metrics.

Resolved (07.79), that the Serbian National Registry of Internet Domain Names, and the Government of Montenegro, work to complete the transition from the .YU domain to the .RS and .ME domains, so that it may be removed from the DNS root zone no later than 30 September 2009.

A voice vote was taken of all Board Members present and all three motions were approved by a vote of all members present 13-0, with one abstention from Peter Dengate Thrush.

Peter Dengate Thrush explained that his reservation was associated with his belief that such policy decisions concerning delegation should rest with the ccNSO as specifically provided under the bylaws. He noted that he has raised this issue on a number of occasions suggesting that this matter should be referred to the ccNSO but to no avail.

The Chair noted that these practices have been in existence prior to the formation of the ccNSO, and that if policy is required in this area that the ccNSO work on a policy proposal, that might be properly considered.

September 11th, 2007 – .YU Retirement (revocation)

Section 14 – Annex 2 – IANA Report .ME

.ME Delegation 20070911

Source : http://www.iana.org/reports/2007/me-report-11sep2007.html

IANA Report on Delegation of the .ME Domain

Background

The Internet Assigned Numbers Authority (IANA) function of ICANN, as part of the administrative tasks associated with management of the Domain Name System root zone, is responsible for receiving requests for the delegation and redelegation of top-level domains, investigating and reporting on the circumstances pertinent to those requests, and, when appropriate, implementing the redelegations.

In accordance with ICANN's performance of these functions, IANA received a request for the delegation of the .ME top-level domain. This domain is designated in the ISO 3166-1 standard for Montenegro, a European country with a population of approximately 700,000. The application for delegation was received on 24 December 2006.

The "ME" code was assigned in the ISO 3166-1 standard by the ISO 3166 Maintenance Agency on 26 September 2006. This followed the break up of the former "Serbia and Montenegro", which was allocated the ISO 3166-1 code of "CS". The .CS domain was never delegated in the root zone for Serbia and Montenegro – instead the country used the .YU domain reflecting the former ISO 3166-1 code for Yugoslavia. The continued use of .YU rather than .CS was on the mutual understanding between IANA and the operator that there was a reasonable prospect that a referendum would result in the creation of a separate Serbia and Montenegro, and result in the issuance of two new country codes.

The delegation application seeks to assign a sponsoring organisation for .ME to the Government of Montenegro, with operations conducted by the Center of Information Systems (CIS) of the University of Montenegro.

In support of the application, IANA has been provided with documentation describing the competencies of CIS. It describes in detail the plan for establishing the registry – including detailed technical implementation details, staff resources, financial resources, and other aspects. The applicant proposes to establish a registry-registrar retail model for the .ME domain, and is being assisted in this task – both with expertise and with software – by CZNIC, the operator of the country-code top-level domain for the Czech Republic.

September 11th, 2007 – .YU Retirement (revocation)

It is proposed that the formal supporting organisation – that is the entity that is responsible for management of the domain, including setting policy and coordinating technical activities – be the Government of Montenegro. In support of the delegation, the Government made a formal decision on 7 December 2006 to appoint CIS as "entitled to act as an administrator of the national Internet domain". This was communicated, along with the specific endorsement of this proposal, by Zarko Sturanovic, the Secretary-General of the Government of Montenegro to IANA in July 2007.

In consideration of the transition from the .YU domain to the .ME domain (and in conjunction, the transition of the Serbian users of .YU to the .RS domain), CIS has entered into a joint arrangement with the current operator of .YU, and a proposed new operator for .RS. This agreement proposes that the operation of .YU will be transferred to the operator of .RS during the transition period. It is proposed that existing registrants under CG.YU, MN.YU, and CG.AC.YU – which reflect the sub-domains under .YU that were used in Montenegro – will be given a pre-emptive right to register new domains under .ME during the implementation phase.

Evaluation Procedure

In its role as investigator of delegation and redelegation requests, IANA procedure is guided by the practices summarized in:

- "Domain Name System Structure and Delegation" (RFC 1591). This document describes IANA's practices relating to delegations at its publication in 1994. See http://www.rfc-editor.org/rfc/rfc1591.txt
- "Internet Domain Name System Structure and Delegation." (ICP-1). This document represents an update of the portions of RFC 1591 dealing with ccTLDs and reflects subsequent evolution of the policies followed by ICANN through May 1999. See http://www.icann.org/icp/icp1.htm.
- The Governmental Advisory Committee Principles for Delegation and Administration of ccTLDs (GAC Principles). This document serve as "best practices" to guide governments in assuming proper roles with respect to the Internet's naming system. See http://www.icann.org/committees/gac/gac-cctldprinciples-23feb00.htm.

In considering the delegation or redelegation of a ccTLD, IANA staff seeks input from both the requesting party as well as from persons and/or organizations that may be significantly affected by the change, particularly those within the nation or territory to which the ccTLD is designated. As noted in ICP-1, the parties affected include the relevant government or public authority: "The desires of the government of a country with regard to delegation of a ccTLD are taken very seriously. The IANA will make them a major consideration in any TLD delegation/transfer discussions."

Taking these factors into consideration, the burden of proof required to permit a delegation involves determining facts that relate to the applicant's capacity to meet the following criteria:

1. **Operational and technical skills**
    a. The prospective manager has the requisite skills to operate the TLD appropriately. (ICP-1 §a, RFC 1591 §3.5)
    b. There must be reliable, full-time IP connectivity to the nameservers and electronic mail connectivity to the operators; (ICP-1 §a; RFC 1591 §3.1)
    c. The manager must perform its duties in assigning domains and operating nameservers with technical competence (ICP-1 §d; RFC 1591 §3.5)
2. **Operator in country**
    a. The prospective manager supervises and operates the domain name from within the country represented by the TLD; (ICP-1 §a; RFC 1591 §3.1)
    b. The prospective administrative contact must reside in the country represented by the TLD. (ICP-1 §a; RFC 1591 §3.1)
3. **Equitable treatment**
    a. The prospective manager must be equitable and fair to all groups encompassed by the TLD that may request domain names (ICP-1 §c; RFC 1591 §3.3)
4. **Community/Governmental support**
    a. The prospective manager has the requisite authority to operate the TLD appropriately, with the desire of the government taken very seriously. (ICP-1 §a, GAC Principles)
    b. Significantly interested parties in the domain should agree that the prospective manager is the appropriate party to receive the delegation (ICP-1 §a; RFC 1591 §3.4)

In meeting these criteria, the IANA staff requests information from the applicant. In summary, a request template is sought specifying the exact details of the delegation being sought in the root zone. In addition, IANA staff asks for various documentation describing: the views of the local Internet community on a change; the competencies and skills of the organisation to operate the registry; the legal authenticity, status and character of the proposed operator; and the nature of government support for the proposal.

After receiving these documents, IANA staff analyses the input it has received in relation to existing zone management procedures, seeking input from parties both related to as well as independent of the applying organization should the information provided by the applicant in their request be deficient.

Once all the documentation has been received, IANA staff will also perform various technical checks on the proposed operator's DNS infrastructure to ensure name servers are properly configured and are able to respond to queries for the top-level domain being requested. Should any anomalies be detected in the applicant's technical infrastructure, IANA will work with the applicant to address the issues.

Assuming all technical issues are resolved, IANA staff will compile a report, providing all relevant details regarding the applicant, its suitability for operating the top-level domain being requested, and any other information pertinent to the application and

submit that report to ICANN's Board of Directors for its determination on whether to proceed with the request.

Evaluation

This report is being provided under the contract for performance of the IANA function between the United States Government and ICANN. Under that contract, ICANN performs the IANA function, which includes receiving delegation and redelegation requests concerning top-level domains, investigating the circumstances pertinent to those requests, and reporting on the requests. Pertaining to the obligations described in the evaluation procedure, in summary IANA staff has assessed the applicant's credentials to be as follows:

- **Operational and technical skills**

  The operator has supplied a detailed plan for implementing a new registry operation for .ME. They have obtained counsel from existing country-code top-level domain registries to assist them in the task.

- **Operator in country**

  Operations will be based in the country, with the Sponsoring Organisation to be the Government of the country.

- **Fair and equitable treatment**

  The applicant has made undertakings to IANA that registrations will be performed on a first-come first-served basis that is fair and equitable.

- **Governmental support**

  The Government is the applicant for the delegation, and has provided letters of support. It has also passed a number of resolutions in support of the request.

- **Community sentiment**

  IANA has received an expression of support from the Association of Information and Communication Technologies, part of the Montenegrin Chamber of Commerce. The applicant has made undertakings that there is not a substantially organized Internet community in the country, and that this organisation is the most appropriate to express the general consensus of the local Internet community.

Recommendation

According to RFC 1591 and ICP-1, IANA needs to respect the ability for a local Internet community as well as local law and local government to make decisions about the operation of a TLD.

In its research, IANA believes that the applicant has met the criteria for reassignment. When considered in conjunction with the application for the .RS domain, and a transition and decommissioning plan for .YU, this represents an appropriate path forward for establishing a country-code for Montenegro on the Internet, and transitioning its users from its former country-code.

IANA therefore concludes that the .ME domain should be delegated to Government of Montenegro as per their request.

Postscript: Board Resolution

On September 11, 2007 the Board of ICANN passed the following resolutions:

Whereas, the .ME top-level domain is the designated country-code for Montenegro,

Whereas, ICANN has received a request for delegation of .ME to the Government of Montenegro,

Whereas, ICANN has reviewed the request, and has determined that the proposed delegation would be in the best interest of the local and global Internet communities,

Resolved (07.75), that the proposed delegation of the .ME domain to the Government of Montenegro is approved.

Section 15

.BB Redelegation
November 20th, 2007

ICANN Board Resolutions 20071120 (.BB)

It is hereby resolved (___), that the proposed redelegation of the .BB domain to the Government of Barbados Ministry of Economic Affairs and Development's Telecommunications Unit is approved.

The redelegation application is noted as not meeting the technical requirements. This is the first documented redelegation to an applicant that does not meet these requirements.

1. Change of policy or application of policy?

   1.1. Applicable Policies and Facts

      1.1.1. This is a standard redelegation request which is covered under ICP1.

   1.2. Evaluation:

      1.2.1. This is a decision by the Board concerning the delegation of a ccTLD.
      1.2.2. Policies in ICP1 cover redelegations.
      1.2.3. This Board decision is specific to a given ccTLD, .BB.

   1.3. Conclusion

      1.3.1. This Board decision does not meet the criteria from the decision tree to classify it as a change in policy. This supports the DRDWG classifying this as an application of policy.

2. Policy Application Issues

   2.1. The decision is dated November 20th, 2007.
   2.2. In what context should these issues be considered?

      2.2.1. The new ICANN Bylaws is at the end of 2002 following the Evolution and Reform Process (http://www.icann.org/en/general/archive-bylaws/bylaws-15dec02.htm) introduced some relevant language in the Core Values section:

         2.2.1.1.   8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.
         2.2.1.2.   9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

   2.3. Evaluation:

      2.3.1. ICP1 has the following statements:

2.3.1.1.　(d) Operational Capability. The TLD manager must do a satisfactory job of operating the DNS service for the domain. Duties such as the assignment of domain names, delegation of subdomains and operation of nameservers must be done with technical competence. This includes keeping the IANA or other higher-level domain manager advised of the status of the domain, responding to requests in a timely manner, and operating the database with accuracy, robustness, and resilience. Because of its responsibilities for the DNS, the IANA must be granted access to all TLD zones on a continuing basis. There must be a primary and a secondary nameserver that have IP connectivity to the Internet and can be easily checked via access to zones for operational status and database accuracy by the IANA.

2.3.1.2.　(e) Transfers and Disputes over Delegations. For transfer of TLD management from one organization to another, the higher-level domain manager (the IANA in the case of TLDs), must receive communications from both the old organization and the new organization that assure the IANA that the transfer is mutually agreed, and that the proposed new manager understands its responsibilities. It is also very helpful for the IANA to receive communications from other parties that may be concerned or affected by the transfer.

2.3.1.3.　(f) Revocation of TLD Delegation. In cases where there is misconduct, or violation of the policies set forth in this document and RFC 1591, or persistent, recurring problems with the proper operation of a domain, the IANA reserves the right to revoke and to redelegate a Top Level Domain to another manager.

2.3.2.　The IANA Reports for this period provide an interpretation of these requirements at this time:

2.3.2.1.　1.Operational and technical skills

2.3.2.1.1.　a.　The prospective manager has the requisite skills to operate the TLD appropriately. (ICP-1 §a, RFC 1591 §3.5)

2.3.2.1.2.　b.　There must be reliable, full-time IP connectivity to the nameservers and electronic mail connectivity to the operators; (ICP-1 §a; RFC 1591 §3.1)

2.3.2.1.3.　c.　The manager must perform its duties in assigning domains and operating nameservers with technical competence (ICP-1 §d; RFC 1591 §3.5)

2.3.2.2.　4.　Community/Governmental support

2.3.2.2.1.　a.　The prospective manager has the requisite authority to operate the TLD appropriately, with the desire of the government taken very seriously. (ICP-1 §a, GAC Principles)

2.3.2.2.2.   b.   Significantly interested parties in the domain should agree that the prospective manager is the appropriate party to receive the delegation (ICP-1 §a; RFC 1591 §3.4)

2.3.3. From Understanding the ccTLD Delegation and Redelegation Procedure (IANA document dated October 1st,2007 – this document is still on the IANA web site) we have:

2.3.3.1.   2. Documentation showing that the request serves the local interest:

2.3.3.1.1.   Crucial to the request are statements of support from the local Internet community. This documentation should provide information demonstrating that the request would be in the interests of the Internet community served by the ccTLD.

2.3.3.1.2.   Good examples of this documentation include statements from national ISPs and ISP associations, Internet user groups, and Internet Society chapters showing support for the request. Other possibilities include statements from national consortia of electronic commerce providers or trademark and intellectual property holders. It would also be instructive to summarise the usage of Internet in the country, and an explanation on why the statements provided (and the organisations they are from) are representative of the community. If there is disagreement about how the ccTLD is run within the community, explain the circumstances and the different points of view, and why your application is the most appropriate path to serve the Internet community's interests.

2.3.3.1.3.   Along with the documentation for local support, this part of the application should include a summary of the intended administrative operation of the domain name including, as an example, how names will be added and in what order, removed, how disputes will be resolved.

2.3.3.2.   From Procedures for Handling Requests by ccTLD Managers to Change Nameservers (effective 30 May 2003 and still current) we have:

2.3.3.2.1.   6. Verify new name server operational status/standards compliance, using DNS queries and other tools such as ping and traceroute

2.3.3.2.2.   The initial test will be in the form of a query to each server requesting the SOA and NS resource records for the affected ccTLD. The expected result would be that all machines give authoritative answers with the same serial number and that they list an identical set of authoritative servers. Differences will be considered as an error. If an error occurs the IANA staff will attempt the tests at a later time and from a topologically diverse machine to minimize the chance that the issue is one caused by connectivity problems. The IANA will also check for necessary glue, consistency between name server IP address and their respective glue records, and consistency between NS records at parent and child.

2.3.3.2.3.   Apparent lack of topological diversity, invalid e-mail addresses in the SOA, and other items non-critical to the functioning of the zone or the root servers and their ability to return answers will result in a "Warning" or "Alert" being sent to the listed technical and administrative contacts. Errors will result in the IANA staff waiting for correction before implementing the zone changes. "Warnings" or "Alerts" will result in a request for confirmation that the ccTLD administrative and technical contacts are aware of and understand the issues. With the exception of lack of topological diversity, improvements in response to these "Warnings" generally do not require IANA staff involvement as they take place outside the root zone. The IANA staff will work with the technical and administrative contacts to assist in addressing any technical issues.

2.3.4. The minutes of the Board meeting contain the following:

2.3.4.1.   The redelegation application for .BB (Barbados) meets all of the necessary criteria. The current operator supports the transfer as does the Government, who is the proposed operator. There is limited support from the local Internet community; however, Staff have visited Barbados and discussed matters locally. Staff also met with the proposed operators at ICANN's San Juan meeting. Currently the nameservers do not meet the technical test; however, these will be made more robust, and Staff recommends the redelegation be approved. IANA will review nameservers performance to ensure compliance if the Board approves the request.

2.4. Conclusion

2.4.1. This application of policy failed to meet some of the requirements of the applicable policy or policies. This supports the DRDWG classifying it as Interesting.

2.5. Notes:

2.5.1. Operational and Technical Skills

2.5.1.1. This decision demonstrates some of the issues associated with the lack of specific published criteria from IANA. The IANA Report on the .BB decision presents the following evaluations:

2.5.1.1.1. Operational and technical skills - The operator will be the Telecommunications Unit of the Government of Barbados Ministry of Economic Affairs and Development. The applicant has been building internal skills within the organisation for the role, and documented its plans in relation to ensuring the entity has the requisite skills to operate the top-level domain registry.

2.5.1.2. This public IANA Report fails to indicate if the proposed operator does or does not have the required operational and technical skills.

2.5.1.3. Yet the Board minutes indicate that in IANA's evaluation the nameservers do not meet the technical test.

2.5.1.4. One could then conclude that passing the IANA technical test for nameservers is not a requirement for redelegation.

2.5.1.5. This conclusion is cause for concern given this would be one of the first documented cases where a redelegation is allowed to proceed where there are clearly documented operational and technical issues.

2.5.2. Community/Governmental support

2.5.2.1. Lists the following requirements:

2.5.2.1.1. a. The prospective manager has the requisite authority to operate the TLD appropriately, with the desire of the government taken very seriously. (ICP-1 §a, GAC Principles)

2.5.2.1.2. b. Significantly interested parties in the domain should agree that the prospective manager is the appropriate party to receive the delegation (ICP-1 §a; RFC 1591 §3.4)

2.5.2.2. From Understanding the ccTLD Delegation and Redelegation Procedure (IANA document dated October 1st,2007 – this document is still on the IANA web site) we have:

2.5.2.2.1. Crucial to the request are statements of support from the local Internet community. This documentation should provide

information demonstrating that the request would be in the interests of the Internet community served by the ccTLD.

2.5.2.3.   The public IANA Report provides the following evaluation of these criteria:

2.5.2.3.1.   Governmental support - The domain will be operated by the government, and is supported by a resolution by the Cabinet of Barbados.

2.5.2.3.2.   Community sentiment - ICANN's Global Partnerships team has performed consultation in the community and determined there is no significant opposition to the request.

2.5.2.4.   The Board minutes describe the community sentiment as: "There is limited support from the local Internet community; however, Staff have visited Barbados and discussed matters locally."

2.5.2.5.   This would then lead to the following questions:

2.5.2.5.1.   Is limited support the same as having no significant opposition?

2.5.2.5.2.   Does either of these qualify as interested parties having agreed?

2.5.2.6.   Unclear how the report meets the requirements for this "crucial" factor.

2.5.3. Criteria of IANA recommendations

2.5.3.1.   Having completed and analysis of all the public IANA Reports that are published one notes the following:

2.5.3.1.1.   Since the .JP IANA Report in February 2002 up until this current decision the IANA Reports have clearly stated that the only policy base used is contained in RFC1591, ICP1 and the GAC Principles.

2.5.3.2.   This represented significant gaps given:

2.5.3.2.1.   IANA was no longer requiring access to ccTLD zone files.

2.5.3.2.2.   September 25th, 2000 Board decision to allow ccTLDs from the ISO 3166 Exceptionally Reserved List.

2.5.3.2.3.   Sponsorship Agreements and MOUs were no longer required.

2.5.3.3.   This is of significant concern to the DRDWG.

2.5.4. IANA Reports

    2.5.4.1.   From the minutes of the Board meeting we have the following text: "Kim Davies advised by way of background for new Board members that the Board is regularly asked to approve redelegations of ccTLDs and in more recent times there has been at least one per Board meeting for consideration. IANA Staff prepares a report that provides a recommendation to the Board. The report is considered confidential but on approval by the Board a version of the report is made public on the website. Some portions of the analysis of the request for redelegation are not made public."

    2.5.4.2.   The DRDWG is concerned that there are no published guidelines as to what should be or should not be included in the public IANA Report or who oversees these decisions.

Section 16

.AE Redelegation
January 23rd, 2008

+ICANN Board Resolutions 20080123

It is hereby resolved (2008.01.09), that the proposed redelegation of the .AE domain to the Telecommunications Regulatory Authority is approved.

Community support not considered a factor in this redelegation.

1. Change of policy or application of policy?

    1.1. Applicable Policies and Facts

        1.1.1. This is a standard redelegation request which is covered under ICP1 implicitly approved by the Board as a policy.
        1.1.2. Similarly to the .GD decision of July 18th, 2006 the "crucial" (as per IANA documentation) requirement of community support was not required for this decision.

    1.2. Evaluation:

        1.2.1. This is an implicit decision by the Board concerning the redelegation of a ccTLD.
        1.2.2. A "crucial" part of this decision is not covered by existing policy.

            1.2.2.1. When a Board consistently fails to meet policy requirements or significantly changes how a policy is applied repeatedly this is considered policy setting by precedent.
            1.2.2.2. The .GD decision of July 18th, 2006 is applicable to the .AE decision.
            1.2.2.3. This would support considering the .AE decision as a new policy as opposed to a failure to apply policy consistently and fairly.

        1.2.3. The decision will generate noticeable changes.

            1.2.3.1. Allowing for the redelegation of ccTLDs without community support is a critical change in policy for ICANN.

        1.2.4. This Board decision is specific to a given ccTLD, .AE but the decision of .GD clearly indicate that this decision is implicitly applicable to all ccTLDs that qualify.

    1.3. Conclusion

        1.3.1. This implicit decision by the Board meets the four criteria from the decision tree and supports the DRDWG classifying this decision as a change in policy that is applicable to the delegation, redelegation or retirement-revocation of ccTLDs.

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2. Did this meet the requirements for policy development?

    2.1. The date of this decision, January 23rd, 2008, makes it subject to all the current requirements for policy development:

        2.1.1. Notice:

            2.1.1.1.   (i) provide public notice on the Web Site explaining what policies are being considered for adoption and why;
            2.1.1.2.   (ii) provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments; and
            2.1.1.3.   (iii) hold a public forum at which the proposed policy would be discussed.

        2.1.2. Core Values

            2.1.2.1.   4. Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet at all levels of policy development and decision-making.
            2.1.2.2.   7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.
            2.1.2.3.   9. Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected.

        2.1.3. ccNSO rules for developing policies for ccTLDs

            2.1.3.1.   Annex B and C clearly define that in most cases policy affecting ccTLDs can only be developed by the ccNSO via the PDP.

    2.2. Evaluation:

        2.2.1. There is no record of a ccNSO PDP on this subject or any communication between the ccNSO and the Board on this matter.
        2.2.2. There is no record of any type of public consultation on this policy or any seeking of broad informed participation.
        2.2.3. There is no record that there was a public forum to allow for discussion of this topic.
        2.2.4. There is no public record of a policy development process although a policy was defined by setting a precedent.
        2.2.5. There is no record informed input was sought or received from those entities most concerned – the ccTLDs.

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2.3. Conclusion

    2.3.1. This policy decision failed to meet all of the requirements for policy development in effect at the time. This supports the DRDWG classifying this as Significantly Interesting.

3. Note: In the January 23rd,2008 redelegation decision by the Board for .AE the ICANN Board Director Jean-Jacques Subrenat raised the following concern which are included in the minutes:

    3.1. Jean-Jacques Subrenat raised concerns about the trend towards moving domains to regulators without local consultation, and that it related to a central issue of governance. Noting that in this particular case, in the findings put forward by Staff, local consultation had not been found satisfactory, Jean-Jacques expressed the view that ICANN should ask for further information or action. He added that ICANN should state preferred policy orientations when it has the opportunity.

    3.2. Dennis Jennings indicated his support of Jean-Jacques Subrenat's views. He noted that territories will pass laws that appoint the regulator as the manager irrespective of the views of the local Internet community, and that ICANN will have to work out how to deal with that.

    3.3. Jean-Jacques Subrenat set out his reasons for abstaining in a written statement to the Secretary following the Board Meeting as follows: "IANA, in its findings, noted that the application for .AE did not meet the general criteria for local Internet community support". As noted above in the description of the meeting, during the Board discussion Jean-Jacques Subrenat had suggested that ICANN solicit further information on specific points of concern that need further elaboration.

    3.4. Part of Mr. Subrenat's concerns may stem from the following:

        3.4.1. At the beginning of the public IANA Report on the delegation of .AE we find the following statement - "It is estimated that Internet is used by 31% of the population in the country†. According to RIPE NCC, as at November 2007 there are 331,953 Internet hosts in the .AE zone†."

        3.4.2. At the end of the public IANA Report we find the following statement in the Evaluation section - "Community sentiment - In its supporting documentation, the applicant has stated that "the Internet community is underdeveloped", and therefore "it is difficult to canvass Internet users with any authority or outcome. There are only two ISPs, so a survey or study doesn't seem worthwhile or appropriate. There are no organized public interest groups. The TRA does understand the value of the input of these groups into the process, however it doesn't seem feasible nor warranted given the lack [of] organisation and clear response they would or could provide."

3.4.3. These statements seem to be at odds with each other and would certainly merit, as a minimum, an explanation by IANA or the Board.

Section 16 – Annex 1 - ICANN Board Resolutions 20080123

Document source: http://www.icann.org/en/minutes/minutes-23jan08.htm

14) Redelegation of .AE (United Arab Emirates)

Kim Davies advised that on 31 July 2007, IANA received a request for the redelegation of the .AE (United Arab Emirates) top-level domain. The .AE domain is presently operated by Etisalat's UAEnic unit. Etisalat is a dominant telecommunications company in the country. It is proposed the domain be transferred to the Telecommunications Regulatory Authority, a government mandated entity responsible for "telecom assets". The TRA proposes to establish a specific entity known as the AE Domain Administration to promote and develop the .AE domain. It will rely on technical support for registry implementation from an established registry services vendor. Local Internet community support for this application has been provided from the Emirates Internet Group. Given the local cultural issues, it was not considered likely that substantial additional support would be forthcoming.

The Chair noted that the original report said no local Internet community support was available, but that additional correspondence was received just prior to the meeting.

Kim Davies advised that this is the case and noted that IANA had not had the opportunity to investigate the legitimacy and substance of the letter, but advised that the ICANN Regional Liaison, Baher Esmat, had confirmed it as legitimate.

Paul Twomey indicated that this issue was summarized very well, and the background to the redelegation was common to other countries in the Gulf region — that the original operator has been local telecommunications provider but as competition has increased the telephone company was no longer considered appropriate. Similar steps had been taken in other nearby countries. There was confusion in the minds of the applicant, but recent communication has helped close some of those loops and it was expected that this is the most you could expect from community.

Jean-Jacques Subrenat raised concerns about the trend towards moving domains to regulators without local consultation, and that it related to a central issue of governance. Noting that in this particular case, in the findings put forward by Staff, local consultation had not been found satisfactory, Jean-Jacques expressed the view that ICANN should ask for further information or action. He added that ICANN should state preferred policy orientations when it has the opportunity.

Dennis Jennings indicated his support of Jean-Jacques Subrenat's views. He noted that territories will pass laws that appoint the regulator as the manager irrespective of the views of the local Internet community, and that ICANN will have to work out how to deal with that.

Goldstein move to accept resolution in view of the stated local Internet community support. The Chair proposed a resolution that the Board approves the request for redelegation of .AE.

Steve Goldstein moved and Rita Rodin seconded the following resolution:

Whereas, the .AE top-level domain is the designated country-code for the United Arab Emirates.

Whereas, ICANN has received a request for redelegation of .AE to the Telecommunications Regulatory Authority.

Whereas, ICANN has reviewed the request, and has determined that the proposed redelegation would be in the best interest of the local and global Internet communities.

It is hereby resolved (2008.01.09), that the proposed redelegation of the .AE domain to the Telecommunications Regulatory Authority is approved.

A voice vote was taken of all Board Members present and the motion was approved by a vote of 13-0 with one abstention by Jean-Jacques Subrenat.

Jean-Jacques Subrenat set out his reasons for abstaining in a written statement to the Secretary following the Board Meeting as follows: "IANA, in its findings, noted that the application for .AE did not meet the general criteria for local Internet community support". As noted above in the description of the meeting, during the Board discussion Jean-Jacques Subrenat had suggested that ICANN solicit further information on specific points of concern that need further elaboration.

Section 16 – Annex 2 – IANA Report .AE

.AE Redelegation 20080123

Source http://www.iana.org/reports/2008/ae-report-23jan2008.html

IANA Report on the Redelegation of the .AE Top-Level Domain

Background

The Internet Assigned Numbers Authority (IANA) function of ICANN, as part of the administrative tasks associated with management of the Domain Name System root zone, is responsible for receiving requests for the delegation and redelegation of top-level domains, investigating and reporting on the circumstances pertinent to those requests, and, when appropriate, implementing the redelegations.

In accordance with ICANN's performance of these functions, IANA received a request for the redelegation of the .AE top-level domain on 31 July 2007. This domain is designated in the ISO 3166-1 standard for United Arab Emirates, a country located on the Persian Gulf with a population of four and a half million people. It is estimated that Internet is used by 31% of the population in the country†. According to RIPE NCC, as at November 2007 there are 331,953 Internet hosts in the .AE zone†.

The .AE domain was originally delegated to UUNET. Recognising the domain should be administered in country, the domain was transferred in 1995 to Etisalat, following a brief period of administration by the United Arab Emirates University. Since that time, Etisalat, through its division the UAE Network Information Center (UAEnic), has been responsible for the operation of the .AE domain. IANA has processed over 25 administrative updates to the domain in that time at the request of the operators.

In 2006, IANA first received informal enquiries relating to a potential redelegation application for the .AE domain to the United Arab Emirates Telecommunications Regulatory Authority (TRA). In February 2007, IANA staff received further enquiries, at which time the applicant was informed of the evaluation criteria for redelegation assessment.

On 31 July 2007, IANA received a ccTLD Modification Template that constituted a full redelegation of the .AE domain to the TRA. The proposed administrative contact would be Mohammed Gheyath, the Director of Technical Affairs for the TRA. The proposed technical contact is listed as "DNS Admin" of the TRA, but no identity information is provided.

In follow up to this change template, IANA received two additional documents – a letter sent to ICANN's Regional Liaison for the Middle East from the TRA, with a copy of a fax from Etisalat purporting to support the redelegation of the domain to the TRA; as well as an overview of the reasons for the redelegation and a description of the proposed technical operation of the domain.

Following receipt of the template, IANA undertook routine verification of the consent of the current operators for the change, as well as verification from the proposed new contacts. In addition, IANA staff reviewed the supplied documents for sufficiency in meeting the redelegation criteria.

In its review, it was determined that there is little to no documentation describing either local Internet community sentiment, nor consultations conducted with or by the local Internet community. Clarification was sought from the applicant on the level of Internet community support for the request.

In response to this specific matter, the applicant responded:

[The] TRA is acting upon the National Telecom Law of the UAE, which ensures all telecom assets are managed in the public interest. […] The .AE Domain Name is certainly represented in the public interest through the establishment of the .AE Domain Administration, .aeDA (a function of the TRA). This entity will allow for public participation through the inception of an Advisory Board made of up industry members.

As the Internet community in the UAE is undeveloped it is difficult to canvass internet users with any authority or outcome. There are only two ISPs, so a survey or study doesn't seem worthwhile nor appropriate. There is no formal ISOC chapter here within the UAE. There are no organised public interest groups. The TRA does understand the value of the input of these groups into the process however it doesn't seem feasible nor warranted given the lack or organisation and clear response they would/ could provide.

Finally it is fair to say that the TRA have gained the view of the "Internet community" by seeking and receiving the support of the current .AE delegate (UAEnic and Etisalat).

Evaluation Procedure

In its role as investigator of delegation and redelegation requests, IANA is guided by the practices summarized in:

- "Domain Name System Structure and Delegation" (RFC 1591). This document describes IANA's practices relating to delegations at its publication in 1994.
- "Internet Domain Name System Structure and Delegation" (ICP-1). This document represents an update of the portions of RFC 1591 dealing with ccTLDs and reflects subsequent evolution of the policies followed by the IANA through May 1999.

- The Governmental Advisory Committee Principles for Delegation and Administration of ccTLDs (GAC Principles). This document serves as "best practices" to guide governments in assuming proper roles with respect to the Internet's naming system.

In considering the delegation or redelegation of a ccTLD, IANA seeks input from both the requesting party as well as from persons and/or organizations that may be significantly affected by the change, particularly those within the nation or territory to which the ccTLD is designated. As noted in ICP-1, the parties affected include the relevant government or public authority: "The desires of the government of a country with regard to delegation of a ccTLD are taken very seriously. The IANA will make them a major consideration in any TLD delegation/transfer discussions."

Taking these factors into consideration, the burden of proof required to permit a delegation involves determining facts that relate to the applicant's capacity to meet the following criteria:

1. **Operational and technical skills**
   a. The prospective manager has the requisite skills to operate the TLD appropriately. (ICP-1 §a, RFC 1591 §3.5)
   b. There must be reliable, full-time IP connectivity to the nameservers and electronic mail connectivity to the operators; (ICP-1 §a; RFC 1591 §3.1)
   c. The manager must perform its duties in assigning domains and operating nameservers with technical competence (ICP-1 §d; RFC 1591 §3.5)
2. **Operator in country**
   a. The prospective manager supervises and operates the domain name from within the country represented by the TLD; (ICP-1 §a; RFC 1591 §3.1)
   b. The prospective administrative contact must reside in the country represented by the TLD. (ICP-1 §a; RFC 1591 §3.1)
3. **Equitable treatment**
   a. The prospective manager must be equitable and fair to all groups encompassed by the TLD that may request domain names (ICP-1 §c; RFC 1591 §3.3)
4. **Community/Governmental support**
   a. The prospective manager has the requisite authority to operate the TLD appropriately, with the desire of the government taken very seriously. (ICP-1 §a, GAC Principles)
   b. Significantly interested parties in the domain should agree that the prospective manager is the appropriate party to receive the delegation (ICP-1 §a; RFC 1591 §3.4)

In meeting these criteria, the IANA requests information from the applicant. In summary, a request template is sought specifying the exact details of the delegation being sought in the root zone. In addition, IANA asks for various documentation describing: the views of the local Internet community on a change; the competencies and skills of the organisation

to operate the registry; the legal authenticity, status and character of the proposed operator; and the nature of government support for the proposal.

After receiving these documents, IANA analyses the input it has received in relation to existing zone management procedures, seeking input from parties both related to as well as independent of the applying organization should the information provided by the applicant in their request be deficient.

Once all the documentation has been received, IANA will also perform various technical checks on the proposed operator's DNS infrastructure to ensure name servers are properly configured and are able to respond to queries for the top-level domain being requested. Should any anomalies be detected in the applicant's technical infrastructure, IANA will work with the applicant to address the issues.

Assuming all technical issues are resolved, IANA will compile a report, providing all relevant details regarding the applicant, its suitability for operating the top-level domain being requested, and any other information pertinent to the application and submit that report to ICANN's Board of Directors for its determination on whether to proceed with the request.

Evaluation

This report is being provided under the contract for performance of the IANA function between the United States Government and ICANN. Under that contract, ICANN performs the IANA function, which includes receiving delegation and redelegation requests concerning top-level domains, investigating the circumstances pertinent to those requests, and reporting on the requests.

Pertaining to the obligations described in the evaluation procedure, in summary IANA has assessed the applicant's credentials to be as follows:

- **Operational and technical skills**

  The registry will be operated by the Telecommunications Regulatory Authority, that has undertaken to create an entity known as the ".ae Domain Administration" (aeDA), which will "review all existing .AE policy in order to implement policies and practices that are reflective of world's best practice".

  The operator is supported by AusRegistry International, a registry services vendor with previous experience in creating technical backend systems for top-level domain registries.

  The applicant has provided a detailed operational and technical plan that describes the technology platform the .AE registry will be facilitated with.

- **Operator in country**

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The proposed sponsoring organisation, and substantial operations, are to be based in country.

- **Fair and equitable treatment**

  The applicant has made undertakings to IANA that registrations will be performed on a first-come first-served basis that is fair and equitable.

- **Governmental support**

  The applicant is an independent public authority established under Federal Decree by Law No. 3 of 2003. It is empowered to generally oversee the telecommunications sector, and specifically "telecom assets".

- **Community sentiment**

  In its supporting documentation, the applicant has stated that "the Internet community is underdeveloped", and therefore "it is difficult to canvass Internet users with any authority or outcome. There are only two ISPs, so a survey or study doesn't seem worthwhile or appropriate. There are no organized public interest groups. The TRA does understand the value of the input of these groups into the process, however it doesn't seem feasible nor warranted given the lack [of] organisation and clear response they would or could provide."

Recommendation

According to RFC 1591 and ICP-1, IANA needs to respect the ability for a local Internet community as well as local law and local government to make decisions about the operation of a TLD.

In its research, IANA believes that there are grounds for reassignment of the domain name under the relevant criteria.

IANA therefore concludes that the .AE domain should be redelegated to the Telecommunications Regulatory Authority as per their request.

Postscript: Board Resolution

On 23 January 2008 the Board of ICANN passed the following resolution:

Whereas, the .AE top-level domain is the designated country-code for the United Arab Emirates.

Whereas, ICANN has received a request for redelegation of .AE to the Telecommunications Regulatory Authority.

Whereas, ICANN has reviewed the request, and has determined that the proposed redelegation would be in the best interest of the local and global Internet communities.

It is hereby resolved (2008.01.09), that the proposed redelegation of the .AE domain to the Telecommunications Regulatory Authority is approved.