LACTLD REPORT ICANN 55 MEETING

5-10 March
2016
Marrakech

LACTLD
Latin American and Caribbean
ccTLDs Organization

www.lactld.org

This report is partially based on the CENTR report of the ICANN 55 Meeting, which addresses more aspects of the GAC and GNSO meetings. CENTR report in English is available here. LACTLD is also indebted to Leonid Todorov's (APTLD) daily briefing notes.

LACTLD Meeting Report of ICANN 55

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Introduction: main highlights

- ICANN 55 will be a meeting remembered by the Internet community as the conclusion of the period of formulation of a proposal for transition of the IANA functions from the oversight of the US Government IST. The ICANN Board signed off the CCWG Accountability proposal that was accepted by the six chartering organizations, marking the end of a process - and the beginning of another with its new complexities. After two years since the announcement of the NTIA to transition the oversight functions of the IANA to the global, multistakeholder community this is a hugely important milestone. But it won't be the last in a year that promises to be very intense since ICANN needs to start working on the implementation of the proposal, and last but not least, the proposal needs to be approved by the US Government in a year of a high voltage electoral campaign in that country.

- The opening session was Fadi Chehadé's final farewell as ICANN's CEO. Göran Marby, his successor also spoke at the ceremony and commented on his forthcoming weeks getting trained and moving with his family to Los Angeles before formally exercising his role in the month of May. Marby managed to attend 10 minutes at the ccNSO session and to present himself more closely to the ccTLD community. He is not yet developing any of his working plans, but he stressed repeatedly both at the opening session as well as at the ccNSO that he was willing and expecting to listen to the community.

- The change of location of ICANN 56 from Panama to Helsinki was also announced at the opening session (more news about his at the LAC Space session below).

- New Chairs at ccNSO. Byron Holland (.ca) stepped down from his role of Chair and will remain Vice-Chair for another year. His successor is Katrina Sataki, from .lv. This is a very interesting new phase for the ccNSO, which for the first time will be lead by a non – Commonwealth ccTLD. Demi Getschko (.br) was appointed Vice-Chair together with Byron Holland.

LAC Space

As is customary, there was a LAC Space session held at ICANN 55. The original agenda was changed to incorporate Nick Tommasso and Sally Costerton from ICANN to explain to the LAC community the rationale behind the decision to cancel the ICANN 56 meeting that was going to be held in Panama, based on the health risks provoked by the surge of zika cases in the country. The discussion with the participants in the room was centered on the fate of ICANN 57 in Puerto Rico and whether the LAC community should be prepared for yet another change. A change of venue for the October meeting seems to be a scenario that is ICANN is considering and in the next 6 weeks we should expect their decision. The attendants also raised their concerns about the marginalization of the LAC community from ICANN meetings with these changes and we were told that ICANN would be considering alternatives so as not to affect so much regional participation.

The rest of the meeting was focused on the progress made by the New gTLD Auction Proceeds Drafting Team (in which the ccNSO is the only chartering organization not to participate). The proposals could be relevant for the development of LAC related projects for the DNS, a consideration that was proposed by Tony Harris. Other presentations focused on the progress of the ICANN Africa Strategy which started in 2013 and has significant milestones to show and the introduction of the LAC DNS Marketplace study, which LACTLD is conducting with other partners.

The IANA Stewardship Transition and the ccNSO

To access the last version of the full proposal of the CCWG Accountability click HERE

The approval process for the CCWG Accountability proposal by each SO/AC began a few days before the official commencement of ICANN 55 and during that week. By Wednesday 9 March the six SOs/ACs of ICANN had approved this last version, which was signed by the ICANN Board on Thursday 10 March and was the last step of the requirements to meet NTIA criteria for the IANA Stewardship Transition.

The SSAC and the ASO were the first to give their green light to the proposal. By Tuesday, ALAC had also approved the proposal and the GAC in the early hours of Wednesday. The GNSO approved the proposal at its Council meeting on Wednesday.

The ccNSO was the last of the six SO/ACs to approve the Final proposal from the Accountability CCWG on Wednesday afternoon. While it was formally a Council decision, the ccTLDs in the room approved almost unanimously the proposal with only two abstentions. This decision by the ccNSO council was met with relief and emotion by many of the participants from the ccNSO and the ICANN community present in the room, since it was the last of the chartering organisations of the CCWG to approve the proposal.

Testing the temperature at the ccNSO meeting before the council's vote. 9 March 2016

For a perpective on the comments sent to the Co-Chairs of the CCWG Accountability by the six SO /ACs: https://community.icann.org/pages/viewpage.action?pageId=58723827

ccNSO

All the presentations from the ccNSO meeting are avaialble here: http://ccnso.icann.org/meetings/marrakech55/presentations.htm

Since the announcement by the NTIA in March 2014, the IANA Stewardship Transition Process has captured the attention of many hours of the agenda of ccNSO meetings. This case was not an exception, where ten hours of the ccNSO programme in Marrakech were devoted to the issue. When considering the final proposal put up by the CCWG Accountability had only been published a week before the meeting, so it was necessary to prepare the community for these changes (The lack of time was one of the major criticisms by a couple of members).

Byron Holland shared the diagram where the CCWG stood in the whole process for the submission to the NTIA.

CCWG Accountabilility Process in the IANA Stewardship Transition
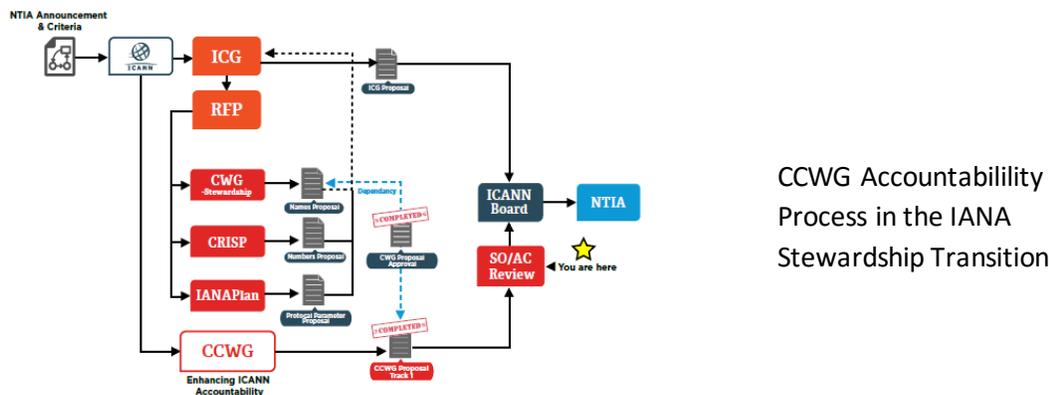
A very useful slide was produced and presented by Roelof Meijer (.nl), showcasing a SWOT analysis of the CCWG Accountability proposal. Among the strengths, he remarked that the proposal substantively improves accountability mechanisms in ICANN and builds on pre-existing work of ATRT and AoC. The seven powers to the community are also important changes to the ICANN Bylaws that empower the community. Among the weaknesses, he pointed out at the mistrust among the chartering organizations and the board, which the proposal seems to underscore rather than to eliminate. Another one is that the GAC position, which was commented by 16 governments in a minority statement (see GAC section below).

The presentation by Trang Nguyen from ICANN on what the ccNSO needs to do follow the Implementation Planning Update provides an essential guide to understand the future steps that need to be considered for the implementation phase that will run until late August. In particular, slide 8 and onwards provide a very useful summary for ccNSO members and ccTLDs in general to understand the different vacancies and positions that will need to be filled in with volunteers in the coming months. ICANN needs to present the report of its progress on the implementation by mid August to the NTIA.

The volunteer shortage from ccTLDs was addressed several times during the meeting. The implementation of the PTI means that there will be eight positions to be filled by ccNSO/ccTLDs in the following new bodies:

1. Special IANA Function Review Team: review issues raised by CSC
2. Customer Standing Committee (CSC): monitor on an ongoing basis the performance of the new IANA.
3. CSC Charter review team
4. CSC Effectiveness review team
5. CSC Service Level Target Review team
6. IANA Function Review Team: review contract between ICANN and the PTI every two years
7. Root Zone Evolution Review Team (RZERC): advise the ICANN Board of architectural and operational changes to the root zone environment on an ad hoc basis.
8. Separation Cross-Community Working Group: To review issues escalated by the Special IANA Function Review team as needed

The following site has been setup to provide all the updates about the IANA Stewardship implementation: https://www.icann.org/stewardship-implementation

Policy Development Processes (PDPs): Retirement of ccTLD and Review Mechanism decisions on delegation, revocation and retirement of ccTLDs

This discussion is a follow-up from the framework of interpretation (FoI) and was presented by Becky Burr (.us). The FoI WG identified two issues for further policy development work.

1. There is nothing in RFC1591 on what to do with retirement of ccTLDs.
2. There is no review mechanism for decisions on the delegation, revocation and transfer of ccTLDs. Although this is mentioned in RFC1591 it was never put in place.

These policy gaps can only be filled with a full Policy Development Process (PDP). A PDP process has 3 stages:
• Stage 1: Council starts it off with a decision describing the issues, timeline and scope thereby initiating PDP;
• Stage 2 starts with an interim report, requests public comment on the interim report and ends with final report;
• Stage 3 is decision making: it starts with final report adopted by Council, ccNSO members vote and ends with submission to the Board.

Stage 2 takes a minimum of 6 months. Stage 3 takes 3-4 months. Volunteer fatigue might be an issue here, as well as doing them in parallel. Although the policy itself on delegation, revocation and transfer is clear and there is no need for further clarification, the problem is that there is no review mechanism for these and it was questioned whether it was actually needed. After a good discussion, the ccNSO decided to start with Review mechanism first, then it will start the work on the retirement PDP and it will finalise the package by checking if the review needs to be adapted to the new retirement mechanism.

Other ccNSO sessions

Other sessions included the traditional update slots with the ICANN Board, NomCom, IANA and the ROs. The Marketing session was chaired by Alejandra Reynoso (.gt) had a lively debate with the different examples from .be, .jp and DNS Africa. The Legal session chaired by Ann-Cathrin Marcussen (.no) included a presentation from .vn, as well as the dispute resolution process at .tz and the intermediary liability issue with ccTLDs presented by Peter van Roste from CENTR.

Tech Day agenda included a long session on Anycast services. All available presentations here.

GAC

GAC– CCWG Accountability

In the early hours of 9 March the GAC adopted its position in favour of accepting the CCWG Accountability proposal to the ICANN Board. The outcome of the GAC's substantial deliberations on the CCWG report is a statement of non-objection with regards to the transmission to the ICANN Board. The GAC adhered to the bottom-up multistakeholder process, appreciated the work done by the CCWG and reaffirmed its (special) role as an advisory committee. The GAC supported Recommendations 1 to 10 and 12 (consensus), yet were not able to find consensus on Recommendation 11 and the resulting "carve-out". They are willing to take part in the "empowered community mechanism as a decisional participant, under conditions to be determined internally".

In a minority statement 16 signatory countries (incl. Argentina, Brazil, Chile, Paraguay, Peru, Uruguay, Venezuela from the LAC region) expressed their "extreme disappointment" with compromise solutions addressing "Stress Test 18" (see below), which were not previously discussed. Yet, in its final statement, the GAC try not to give too much weight to this statement by not including a direct reference, but stating: "other delegations… were not in a position to endorse the proposal as a whole".

The 16 countries' discontent was reiterated over and over during hours of discussion. Stress Test 18 depicts an extreme, potential scenario of undue governmental control in the relation to the ICANN Board. It turned into Recommendation 11 calling for a bylaw change to address how the Board should deal with GAC Advice. It specifies that any GAC advice approved by full GAC consensus (defined as general agreement in absence of formal objection) may only be rejected by a vote of 60% of the Board. The GAC's position was hence strengthened.

Recommendation 11, however, also resulted in the so-called "carve out": GAC (full-consensus based) advice, even if accepted by the Board, could still be challenged by the empowered community. Such a community process culminates in a vote, from which the GAC would be excluded (to avoid the "two bites at the apple" problem). (For a full view on the advice presented by the different SOs/ACs on Recommendation 11, go here). Yet, the GAC would still be able to participate in decisions concerning the removal of board members, rejection of the budget, etc. – and also its own GAC advice, if not based on consensus. The GAC's reluctance was based largely on the feeling that the "carve-out" was only included at a late drafting stage (not allowing for enough time to "digest" it) and for fear that the community could abuse its powers and always reject GAC Advice. As today, GAC Advice can only be rejected by the Board (no involvement of the community), they felt they were worse off. The proposal addressed this by increasing the threshold for Board rejection (of GAC consensus advice) from simple majority (51%) today to 60% .
Reactions by governments (selection, based on Nina Elzer from CENTR):

• The carve-out is a "major blow to the multistakeholder approach", "it contaminates the full proposal", it "compounds a very ugly picture in which it is clear that the real intent was to circumvent the possibility of governments having meaningful participation unless there is full consensus" (Brazil).
• The GAC can still give non-consensus-based advice (European Commission).
• "If GAC agrees with simple majority there would be no carve out at all" (Iran).
• GAC Advice was only rejected two times (2008, 2011), but even though these issues continued to be discussed (Iran).
• Denmark failed to see "why we are marginalised" and highlighted that the 60% threshold was an improvement and why, if GAC advice was not in line with the mission statements' core values and bylaws, anybody should be prevented to go to an IRP.
• States are marginalised within the ICANN system, "because the proposal imposes upon them their rules for decision-making" (France).

The GAC minority statement was not the only one. There were four others as well. For a full view of all of them, go here.

GAC Advice on 2-character labels at second level (implementation)

(Note: This concerns strings, such as .es.vin).

The GAC argues that 2-letter labels are strong identifiers of a country, such a string could hence indicate a strong relation to local authorities, businesses offering services in that country and hence abiding by national legislation.

The GAC regretted that actions under ICANN's Registry Agreement Specification 5 were not consistent with previous GAC advice (see Communiqué ICANN54). But, the Board had asked the GAC to "clarify which specific TLDs their comments pertain to" and how the release of 2-character labels "will cause confusion with their corresponding country code. Some governments had filed comments on a broad range of TLDs (brands and other), yet not all were considered to create confusion.

The GAC shared three updates:

1) A webinar was held to explain the authorisation process, including a new web form to submit comments (on each TLD respectively): TLD registry operators that have received comments by governments need to present mitigation plans within 60 days to ICANN (deadline is 24/04/16). ICANN will take into account both comments and mitigation plans and formulate criteria on how to assess government concerns. The criteria will be put to public comment;
2) About 50 comments had been submitted by the deadline (05/12/16), many of which met the criteria of confusability. Eight 2-character labels that did not will be released in the near future;
3) The ICANN board's response to previous GAC advice (reiterating that it would only accept GAC advice if it related to confusion) led the GAC to the question of whether there would/could now be further consultations or a process of appeal. Non-reaction, they learned, would be considered passive agreement, as explicit rejection was needed and the confusability criteria had to be met for a comment to trigger mitigation.