
SAN JUAN – GAC Discussion: Two-Character Country & Territory Codes at the Second Level

Saturday, March 10, 2018 – 17:00 to 17:45 AST

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MANAL ISMAIL, GAC CHAIR: So please if you can start taking your seats. so, welcome back everyone. we are now starting agenda item 5 on two character country codes at the second level is scheduled at Saturday 10 March for 45 minutes. Again, please remember when you are called upon that you state your name and affiliation for transcript purposes.

So the two character code has been on our agenda for quite some time. We have now many new GAC representatives. So we thought that we have a brief description of everything like a one-stop shop to make sure we are all on the same page and then we can agree on a way forward. So Fabien has done an excellent job in compiling everything in one brief. I hope you had a chance to read this brief and Fabien can you please take a through it.

FABIEN BETREMIEUX: Sure, thank you Manal. My name is Fabien Betremieux, support team, I don't have control Gulden... Thank you very much. So this is page 7 of the briefing for this session. The reason why I want to

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start here as an introduction is to make sure that the scope of the discussion is clear to everyone. As the concerns that governments may have around country and territory names and codes are actually divided in several areas in terms of ICANN policies procedures and contracts. Because different policies and procedures apply to different categories of those names and codes.

So, there are three types of identifiers that we distinguish two character country codes, three character country codes and country and territory names. And we distinguish in terms of policies, procedure contract between the top level and the second level of IDNS. So the scope of this session is really about two character country codes at the second level. So this is the top right cell in the table. And as you can see, the status of this matter is that since December 2016 and following an ICANN board resolution of 2016 and permitted by the organization on 13 December, now this country codes are allowed for release in new gTLDs that have adopted the new registry agreements to the extent that measures to avoid confusion with country codes are implemented.

Since this decision which concludes a long-running process of many years, in which the GAC and governments were involved there has been concern expressed by some governments and reflected by the GAC in several of its communiqués and most

recently in the ICANN 60 communicate that was followed up earlier and advice and so all of those are detailed in your briefing as well. In particular in section 5 of your briefing.

So, today several colleagues of the ICANN organization have joined the GAC to introduce some services that ICANN is making available to governments that that have concerns with the use of country codes in gTLDs and also to answer any questions that GAC members may have on this matter. With that I will close my introduction and give the floor to Laurent and give it to yourself for an introduction and take it away.

LAURENT FERRALI:

From the government agency. I will give you a brief overview of the two by those agencies I can provide to GAC members in order to address any concerns they could have related to [cohesion] to the two country codes at the second level.

So, you have all of this information in the brief mentioned by Fabien. So ICANN will provide two types of services for GAC members the first services I can provide to GAC members as monitoring services. The idea is to provide GAC members relevant information related to the registration of the two letter codes at the second level. I will be the focal point, the contact for any requests from GAC members we are ready to provide to you this relevant information after each ICANN GAC members

[INDISCERNIBLE]. The idea is to have you at the GAC meeting if you have any question related to the lists of information sent to you. Yeah. And the second type of services we are planning to provide to you is any services related to I mean, if you have any case of confusion, if you have any concern with, confusion with your [two digit] code I can be able to provide you some support. The first thing to do is to report and to try to find a solution with the registry operator in the second time and if you still have an issue you will be able to log a complaint with our colleague from ICANN compliance. So yes. This is the two types of services we will provide to GAC members on this two character issue thank you.

AKRAM ATALLAH:

Hello this is Akram Atallah. Thank you for offering us the opportunity to address this issue as everybody mentioned earlier this has been going on for a while. What we've done in the past for selective GAC reps that requested from us is to provide them with a list of illustrations that are, where the two character code gTLD legacy TLD and registry TLD. This was ad hoc I was doing spreadsheets and stuff to get them the list of registrations. And we will continue to do that in an ad hoc manner for the demand and if it becomes more of a, on a regular basis that there are a lot of requests for that that we would try to do automation so we can do it on a more regular basis that is the

plan right now and as we mentioned these are all contractual obligations of the registries have to mitigate confusability and if someone is actually using the two character, second-level registration to make it confusing with the CC then that is a measure you can actually file a complaint for and the compliance team will have to address so that is the second column on the right there. So both will provide the monitoring for you to see where this is happening and then if there is something that is causing confusability you can actually address it through the compliance. Team okay thanks.

MANAL ISMAIL, GAC CHAIR: Thank you very much. Just for the transcript issue just because you were not identified in the transcript the first speaker was Akram Atallah and thank you Akram and thank you Laurent and I think we can open up the comments or questions from GAC. Yes, Brazil please?

BRAZIL: Thank you Manal and thank you for the presentations but actually as it was set and explained, this issue has been going on for some time. Involving the GAC and other parts of the community. However something that was not said is that the decision that was taken by the board back in 2016 implied a major change in the prevailing modus operandi so far in a way

that was not adequately communicated or endorsed or absorbed by the GAC. It created a fait accompli, the results of which are unfolding every day. The GAC at some point expressed by consensus, the consensus of the full GAC concern about the procedural aspects that in the view of the GAC were not aligned with the transparency and communication that should prevail. Regarding the consensus of members expressed their concerns, that the concern was not shared by others but the procedural aspect was a matter of concern. I'm sorry to say I have not seen anything from that time that adequately responded to either the concern about the procedural aspect or the concern on the substance. The, at the time the mitigation measures that were proposed were considered insufficient. It was discussed by us with you and you have heard among the part of many of us concern about the frailty of those measures that were being proposed, and I see now that other measures are being proposed with due respect I do not think they address the basic change in a way that was made in a way that was found inappropriate bias that raise concern but that created a fait accompli. So thank you for the presentation but to the extent that my delegation at least is concerned we are not satisfied in the way things have unfolded. I think the issue remains and we think the major change was made in affecting the way we were operating and that was changed in the [lottery] by the board and we think it affected the balance between what should be the

country codes and the generic names and again we think it was done in a way that it is illegitimate. I'm sorry to say that thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Brazil. I have Portugal next.

PORTUGAL:

Thank you. I'm going to speak in Portuguese. This issue of using the two characters as a second level, as our Brazilian colleague said, this was imposed to countries that agreed and from our point of view it was a matter of rules, society must have rules otherwise society will not work properly. Therefore we believe this was an abuse. Two or three characters should not be used. This would be considered as abuse. This rule... not is compliant with ISO rules. What we would like to ask this moment, taking into account that any issue that comes up, it will be always very complicated to solve because the rules that we have here. Now, why are the rules not adequate? It takes years or months to be solved. I would like to know what was the advantage of having two characters as a second level domain. What is the use of it? How useful was that?

MANAL ISMAIL, GAC CHAIR: Morris next.

LIN, MAO-SHONG:

Thank you Mdm. Chair and thank you ICANN staff for the briefing and services. If I know ICANN member resolution in December 2016, it had been more than one year and the GAC had [displaced] our concern and revise for more than one year since. There is still no substantial... substantial [obligation] [INDISCERNIBLE]. According to the new principal the two digit country code in the second [INDISCERNIBLE] is also [INDISCERNIBLE] by the registry and the registry is run entirely to have a preregistration period for the corresponding government. But it is just voluntary. Not compulsory. Therefore there may be a lot of two digit country code on the second level already released but the corresponding [government] don't know anything about it. Therefore I would like to suggest ICANN can regularly and actively provide the information to GAC, at least corresponding government that the two digit country code on the second level [release status] to the corresponding government. So the corresponding government can know what to do next. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you Mr. Morris. I have Argentina next.

ARGENTINA:

Thank you Mdm. Chair. Thank you for Akram and colleagues for the presentation. I would like to support I think Amb. Benedicto could not have said it better. He explained the concerns of not only Brazil but other countries. We have expressed the same concerns. There was a procedure established in between GAC and ICANN and it was, it disappeared by the end of 2016. And we also express to the chance of having a dialogue space to interact within ICANN and the GAC members who had concerns about that. And as far as I can remember there was a positive response from ICANN about having this space for discussing this, but it never occurred. So we think this is quite disappointing. So if that could be considered in the future, if we can talk about the concerns of several countries about this important issue, that could be very good as it was promised before. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Argentina. China?

CHINA:

Thank you, Chair. First I would like to thank Akram and Laurent for your coming here. With regard to the two character country code at the second level, the key is to appropriately handle the concerns from the relevant GAC members. Although we, I think we do appreciate service available to address some of the concerns of the GAC members, but still you can see that some of

the GAC members still think the medication measures for us are insufficient. Some of us I mean the GAC members of this committee do have the same concern. So I would like to echo the viewpoint of previous speakers. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, China. I have France next.

FRANCE:

Thank you and thank you for the update. I'm saying it was welcome and I'm not saying that because it was made by two fellow French people, but also because we have been discussing this issue for quite some time, for numerous GAC meetings, and I think it is a good initiative because it brings clarity to the GAC and it also provides two new services that are offered by ICANN org for GAC members that might have concerns with the use of their two letter country codes at the second level. Maybe it would be useful or maybe you can confirm that if there was an official page on the ICANN website on which we can see a list of the countries that use these services and if you can provide a link for those countries that might want to use those services in the future because I think it would be also good to have that, not only to have an email contact but to have an official page to which we could refer in the future.

So, that being said while I am really happy with this initiative I would also agree with what was said by Brazil, Argentina, China and other. While I think it is a good initiative, that does not change the fact that was filmed by ICANN organization some time ago now was really a flawed process that revealed the lack of communication between ICANN and the GAC and of course there was a lot of disappointment for those countries who expected to use the other authentication mechanism but that is in the past and again I'm really grateful for ICANN org for this initiative and I think we know a good track that would favor Mork medication between ICANN org and the GAC so that positive thank you.

MANAL ISMAIL, GAC CHAIR: Yes, Belgium please?

BELGIUM: Thank you Mme. chair. I will speak in French. As in previous interventions we are very sorry if it is precedent that has been set and to the new procedure that has been implemented is something we have discussed for a long time. ICANN has continued to comply with this procedure [INDISCERNIBLE] setting aside a procedure that has been accepted by ICANN and here we are setting a precedent that is a matter of fact sets aside a trust that we have had in this process before.

MANAL ISMAIL, GAC CHAIR: [INDISCERNIBLE] the floor, yes please. I'm sorry can you identify yourself as well? Sorry.

RWANDA: [INDISCERIBLE] I found some contribution on this topic, Brazil and Argentina and I support them for their contributions. So we will be talking about this issue for a long time and I think it's time to come up with a [positive] mechanism to come up with a resolution on this issue. So we are always saying it is a matter of missed medication between GAC and ICANN but I don't think it's the main issue. The issue is about procedures as was said by Brazil and Argentina. So, I think ICANN and GAC should sit together and see how you can just solve this procedural issue since you are always saying it is a communication issue, thank you Mme. chair.

MANAL ISMAIL, GAC CHAIR: Thank you, Rwanda. Any further requests for the yes please. I have UK and Singapore.

PAUL BLAKER: Thank you. It is Paul Blaker from the United Kingdom. I'm conscious that I'm a new member of the GAC so I don't have so

much experience and how this issue has developed over the last few years but I did want to just think Laurent and ICANN in particular thank you for the information about measures to avoid confusion. I just wanted to ask perhaps other members of the staff to say little bit more about how many complaints have actually been made so far. Have these measures to avoid confusion been employed yet? And were the issues resolved satisfactorily? Maybe it would just be helpful to have information about how these arrangements are actually working out. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, UK. We have Singapore up and then you can... so, Singapore next.

SINGAPORE: [INDISCERNIBLE] from Singapore for the record. First of all I'd like to thank [ICANN] for providing the latest information about the monitoring services. Singapore would like to echo other countries basically who talked about making these a regular feature. I understand from your briefing just now it is [ad hoc] using Excel spreadsheet, but I think that is not sustainable because as small gTLD will be released at the common question when I do my reading back to my own government agencies I think it is doable because I did have my ccTLD technical team try

to do a script and they had produced something but I just really have no authority to authenticate whether this is the correct [list].

On the second issue about the procedure when ICANN came to the decision I do echo, or Singapore do echo Brazil and other speakers about the process about how the other digital [INDISCERNIBLE] came about. I guess this is something that we need to further improve on on the transparency because there will be other [decisions] and we should not have the same incident repeating again. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Singapore. So yes I think It was obvious there was a disconnect in the process and obviously it was disappointing and GAC members have concerns but I mean we can learn from the process and try like Francis said to find corrective measures or a way forward. So, with this I will hand it back to you to address a few of the concerns. Thank you.

AKRAM ATALLAH: We received zero complaints for feasibility as of today. We will, actually I will refer you to our compliance team who will actually keep the record and can answer these questions and maybe even provide you with an update on any complaints that we see

on the question of improving the reporting to the GAC members, as I mentioned, we are doing it now manually, if you want. And if there is a demand for that we will actually try and figure out how to automate it and even as France suggested we could probably put the website permanently with the update so people can sign up, but it will take us some time to figure it all out and get it down. But we are committed to making it as easy for you to see what's going on with your, with the two character codes so you have visibility to that.

Regarding the implementation or the breakdown in the procedure, I think Brazil for bringing this up. We are committed to improving the process with the GAC so there are no surprises and I apologize for not having engaged with the GAC on a, earlier in an earlier time to figure out what is this process and how we can make our communication much more reciprocal so that you receive things in time and you get time to give us feedback on it as we are implementing any kind of implementation that we take but I commit to actually talk with maybe my colleague [Tariq] and figure out how to get together with the GAC to formulate a process that works for you on communication so there are no surprises in the future. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you Akram. Any questions or further requests from the floor? Yes, Portugal please

PORTUGAL: I hope [INDISCERNIBLE] think the decision was not very good. I asked what was the added value that ICANN found until now from the use of the country code as second-level domain. Thank you.

AKRAM ATALLAH: Thank you for the question. ICANN does not receive any value out of complying with its contract. The issue was not that ICANN wanted to release those codes. The release of the codes was contemplated in the contract with all of the new registries. So, we had two ways for the registries to release a contract. One was with the procedure where the GAC country would approve the process. The second one was if they sign up to do the confusing mitigation. And after that insistence on releasing the two codes we thought that it's better that we work with them on a process for mitigation that is a uniform across all of them, all of the new gTLD and let each new gTLD do their own mitigation and so that is the second way to release the two character codes came about.

Again, I apologize if that was not very clear to the GAC, or the process was not very clear but this was in the contract that was approved by the board back in 2012 I think or 2011. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Portugal. Brazil please go ahead.

BRAZIL:

Thank you. I think many things have already been said on that so I should not already repeat what has been said in previous rounds. But, one thing I would like to comment and bring to the attention of colleagues and to the ICANN board as well as that even if there is, as you have said maybe no complaints at that point in time, that does not indicate there's no issue about that. Basically, because now the burden is now on the country themselves to identify any problem that may be occurring. I should just mention for example that we met with you Akram a few months ago I'm not sure at which meeting and showed a list of GTL that had already applied for [INDISCERNIBLE] at the second level. We are not even aware of that so how could we even complain about something we are not aware. So you see the burden is now on the government to screen what may be very substantial number of new TLD's that are using, and to assess in each and every case where, so it is something that is really concerning how that could be done. So this has led to a

situation which there are no complaints, that does not seem to be that the problem is not there. And again, I think the way that as I have said there were two ways to allow for that. We had one agreed in a consensus way we have been addressing this, the change to another way of doing things [was done] again I'm sorry to say in a way that was not transparent and not communicated enough so I think it is only natural, the kind of reaction you are having from us. It's not the first time this is taking place because that erodes the trust and the ambience of mutual cooperation that we should be engaged in. I'm not sure at this point I think in light of the response you have been giving us you seem to indicate there's nothing else that should be done at this point. The contracts are already there as you have said. They have been signed. There is no way of going back. Of course maybe responding to Portugal I think that was not... But I think one of the things that have changed is that maybe that has added value to the new gTLDs and made them more attractive maybe. It is maybe a very concrete outcome, added value from the perspective of those who have been delegated new gTLDs, it's yet another attractiveness that is added to this. I don't know. So, but anyway it changes the way we have been doing things and I think that it erodes again, the trust. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Brazil. Any further requests for the floor? Sorry, yes, France, please.

FRANCE: Thank you Manal. I think having heard many countries on the issue I think we should try to look forward and achieve some positive results for both GAC and the ICANN organization I know that Akram agreed with the idea of having a permanent webpage available for the interested GAC members and so maybe we could put something about that to the GAC advice to the board. And maybe as for an update about this for next ICANN meeting in Panama I think this webpage could also propose these two services that were mentioned by ICANN org for interested GAC members and it was also suggested by the UK provide some information about the mitigation members, the number of complaints received and the effectiveness of the mitigation members of it was used at all. So I think it would be a good low hanging fruit kind of and concrete type forward. So yes. Thanks.

MANAL ISMAIL, GAC CHAIR: Thank you, France. So yes Morocco please and then Argentina. Morocco please go ahead.

MOROCCO: [Speaking French] Morocco speaking. Thank you very much Mdm. Chair. I agree in support what has been said regarding the issue when there is no agreement when this country, these two digit codes with second levels. For the name of my country dot MA there has been an issue and I think this should be related with the two character domain names. We have to abide by the process to protect his name at the second level. What is the resolution of ICANN in these cases?

MANAL ISMAIL, GAC CHAIR: Thank you Morocco, Argentina please go ahead.

OLGA CAVALLI: Thank you Mdm. Chair I still think that the communication are very, go back and forth and somehow I have the feeling that we are not listening to one another, or at least I am not understanding you know, my English may be limited. What does it mean the second bullet in the green sign? In case of a concern government believes that such report was not addressed appropriately the next step would be to logic complaint with ICANN contractual compliance function. Could you give us an example what does a government, should do, how that would be executed or done and what happens with those governments who are not so much active or present within this ICANN environment?

MANAL ISMAIL, GAC CHAIR: So Netherlands next please.

NETHERLANDS: Yes, thank you. Coming back to Benedicto said this that we are unaware also of problems because they are not being sent up or we are not being made aware of it but maybe we could see this also in a positive way. I would say if nobody is making a problem about my country code on second level which I have not noted a problem, then maybe there is no problem. And maybe this comes down to what I would call a kind of misperception, which is that the country code on the second level implies a kind of right from governments of ownership or control of these codes, which I'm one of the members of the GAC which together with others have been silent because obviously the ones who are concerned have to spell their voice in this. But I basically think from the Netherlands point of view that the country code on the top level is very important. It is a unique code. Can only be issued once. And it is for the whole Internet on the top level. This is very obvious.

On the second level it is not obvious. In the second level, domains for example NL can be used in many countries, many brand names, many others, and it doesn't really come down to the country of the Netherlands. It's just two digits NL which also

NO or PE or IT could mean many many things. So, I think we should look a little bit on the different side to this problem and not as a GAC trying to, let's say perceive a kind of ownership of these codes on the second level. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Netherlands. So, any further requests for the floor? So we are approaching the end of the session. So maybe let me try to summarize what I've heard.

We heard that many governments are deeply concerned. A few see positive aspects but I mean, I heard so many concerns. I think there is agreement that there was a disconnection in the process. We are trying now to find corrective measures jointly to have a constructive way forward. We have two aspects to this. One regarding the content or the substance itself and one that has to do with the process. So regarding the content as France suggested it's a good to have a one-stop shop, a landing page for this, for GAC members to follow. And again, to benefit from the monitoring and other services that are being provided. And for the process, I mean, there are lessons to be learned from this process. And I believe we agreed that we can work jointly on this just to avoid the repetition of this experience.

So, I am just trying to summarize here. And I'm happy to ask for reactions before we close because we are approaching the end

of the session. So. Is this a fair summary of the discussion?
Argentina please go ahead.

OLGA CAVALLI: Thank you chair, Portugal made a question and I also made a question. I would like to know if you can answer that.

MANAL ISMAIL, GAC CHAIR: Yeah, Akram please?

AKRAM ATALLAH: Thank you for the question. Regarding the second bullet in this basically in a country that sees that some TLD has been using their code in a confusing manner where a restaurant is using the two country, two letter country code in a confusing manner to portray the government or any kind of confusability they can actually approach, the first bullet is to approach the TLD itself and say this is an issue and see what the TLD does. If you don't get a response from the TLD, or they don't investigate the matter and they don't give you a rationale that is justifying the matter, then you can go to compliance and file the ticket with the compliance team. Compliance policy process that is, I will let the compliance team elaborate on that, but the normal where they actually ask the registry why they haven't replied or what is the issue and then they have some time to reply and provide

mitigation measures to the confusability. So they either have to if there is confusability that is harmful than they have to even shut down the second level domain, or if they can fix the, whatever is causing the confusability that is one of the measures that the registry could come back with as a proposal. But I will leave it to the compliance to figure out the steps that they will take in a case like that. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you Akram. Thank you, Argentina. Any further comments or requests for the floor? If not then let me again thank you Akram, Laurent and Fabien and thank you to all GAC colleagues who shared their concerns and this concludes... so this concludes the two character country codes at the second level. So, this session is now adjourned. We will be continuing with the following session as soon as the IT people gives us the go signal. So thank you.

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