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| African Telecommunication Union Administrations | | | |
| Proposed modification of Resolution 47 - Country code top-level domain names and geographic names | | | |
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| **Abstract:** | This contribution identifies the recent challenges encountered with the recent round of new gTLDs relating to geographic names; noting that one of the differences between the administration of the ccTLDs and the gTLDs is the national sovereignty of the administration of the ccTLDs as opposed to the global and ICANN managed administration of gTLDs. The proposed revision of Resolution 47 is to encourage Member States to enhance national reference in the ISCO 3166-2 list with different divisions and subdivisions in order to satisfy the national requirements and needs. It also invites ITU-T to explore ways and means to maintain the right of Member States to request the reservation and to oppose the delegation of any top-level domain (even if it is not included on that list) on the basis of its sensitivity to regional and national interests. |

# 1 Introduction and background

Technologies, including Internet infrastructure, embody public policy values in their design, implementation and usage. The coordinating functions that collectively comprise Internet governance include standards setting institutions such as the Internet Engineering Task Force (IETF), World Wide Web Consortium (W3C), the Internet Corporation for Assigned Names and Numbers (ICANN), Domain Name registrars, registries, network operators, content intermediaries, root server operators, among others. It is therefore an eco-system rather than a single organization that keep the Internet operational.

While all technologies of the Internet have socio-political implications to various degrees, the Domain Name System (DNS) in particular creates public policy concerns. Unlike other Internet governance functions, the DNS embeds content and therefore inherently involve conflicts over property, speech as well as jurisdiction.

Domain names on the Internet function in a manner similar to physical addresses in the physical world. Each part of the domain name provides specific information, which enables web browsers to locate a web page. While Internet protocol (IP) is a set of numerical instructions, which communicates exact information about an address.

ICANN is the non-profit organization that promotes policy and manages the Internet’s addressing system. It also acts as a central repository for Internet protocol (IP) numbers as well as collaborating with root server operators to ensure security, stability and resiliency of the Internet as it advances and evolves.

The organization of the domain name hierarchy, the ability to reserve and protect certain names as well as their affordability continues to be the subject for discussions in various spaces, not only at ICANN. Some of these issues have public interest implications that are of interest to governments.

The 2015 United Nations General Assembly meeting to review the implementation of the outcomes of the World Summit on the Information Society (WSIS) reaffirmed that management of the Internet encompasses both technical and public policy issues and should involve all stakeholders and relevant intergovernmental and international organizations, within their respective roles and responsibilities.

# 2 Discussion

The Dubai 2012 World Telecommunication and Standardization Assembly (WTSA) Resolution 47 recognized that:

*“d) Intergovernmental organizations have had, and should continue to have, a facilitating role in the coordination of Internet-related public policy issues*

*e) International organizations have also had, and should continue to have, an important role in the development of Internet-related technical standards and relevant policies”*

WTSA instructed ITU-T Study Group 2 “*to continue studies, and to work with Member States and Sector Members, in their respective roles, recognizing the activities of other appropriate entities, to review Member States' ccTLD experiences*”.

There are two main categories of Top Level Domains, Country Code (ccTLDs) and Generic (gTLDs). One of the differences between the administration of the ccTLDs and the gTLDs is the national sovereignty of the administration of the ccTLDs as opposed to the global and ICANN managed administration of gTLDs.

While WTSA focuses on ccTLDs, the recent expansion of generic TLDs initiated in 2012 by ICANN introduced many new applications some that have geographic implications, which require addressing various challenges, including resolution of various conflicts. **Therefore “*special attention should be given to the issue of geographic gTLDs as a concept (in generic terms), as they intersect with core areas of interests of any state*”**.

WTSA-12 Resolution 47 instructs ITU-T Study Group 2 *“to continue studies, and to work with Member States and Sector Members, in their respective roles, recognizing the activities of other appropriate entities, to review Member States' ccTLD experiences as well as take appropriate steps within their national legal frameworks to ensure that issues related to delegation of country code top-level domains are resolved”*

The Dot Africa initiative, through the Dot Africa foundation, aims at supporting this resolution by supporting the development of African cTLDs and sharing technology, know-how and resources. The delay in implementing the dot Africa initiative continues to create challenges in contributing to this critical function.

Dot Africa

Prior to launching the most recent round of new generic top level domain process for new applications, governments within the ICANN ecosystem, the Governmental Advisory Committee (GAC), of which more than 25 African governments and governmental authorities are represented, issued “GAC principles regarding new gTLDs” in 2007.

The principles noted that Internet naming system “*is a public resource and it must be administered in the public and common interest*” and sought special attention to be given to names with national, cultural, geographic and religious significance. The GAC urged ICANN to avoid delegating country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities.

These GAC comments are reflected on the ICANN new gTLD application guidebook. The guidebook defines geographic names as:

Capital city names:

• City names where applicants declare that they intend to use the gTLD for purposes associated with the city name

• Sub-national place names listed in the ISO 3166-2

• Regional names appearing on the list of UNESCO regions

• Regional names on the UN’s Composition of macro geographical (continental) regions, geographical sub-regions, selected economic and other groupings

Concerns

These definitions do not adequately cover all possible geographic names as a result the guide book establishes that: "It is in the applicant’s interest to consult with relevant governments and public authorities and enlist their support or non-objection prior to submission of the application, in order to preclude possible objections and pre-address any ambiguities concerning the string and applicable requirements".

African governments, including the African Union Commission had raised concerns in the Dakar communiqué, regarding the protection of African geographic names in the new gTLD program. ICANN had assured African governments that there were adequate protections for geographic names contained in the new gTLD Applicants Guidebook.

As a result African governments did not pursue earlier proposals and requests to have African geographic names for example dot Africa. AFRICA added to the reserve name list and instead became active participants in ICANN’s new gTLD programme and processes.

African Heads of States, through the Oliver Tambo Declaration of 5 November 2009, expressed the need to priorities the delegation of a new continental geographic Top Level Domain Name, dotAfrica (.Africa). The African ICT Ministers thereafter issued a directive to the African Union Commission (AUC), contained in the Third Ordinary Session Abuja Declaration 2010, to ‘set up the structures and modalities for the implementation of the DotAfrica (.AFRICA) Project’.

Pursuant to this mandate from the African heads of State, African governments granted the African Union Commission (AUC) the right of veto in relation to implementation of the dot Africa Domain Name.

The AUC in implementing this mandate from African governments called for all interested parties to submit ‘Expression(s) of Interest’ (EOI) to manage the .Africa TLD in an open and transparent process, in 2011. This process was then followed by a call for proposals (RFP), which culminated in the appointment of UniForum SA (now referred to as the ZA Central Registry ‘ZACR’). The AUC and African governments provided the required 60% support and endorsement to the ZACR application as required by ICANN’s new gTLD applicant guidebook.

Having followed all the required processes, the AUC, African governments and other African stakeholders expected the .Africa top-level domain name to have been delegated more than three years ago joining other new gTLDs and already existing regional names like dot EU and dot Asia.

The issue

However, a private organization DotConnect Africa (DCA) submitted a competing dot Africa application [application ID: 1-1165-42560] to ICANN. African governments and the AUC followed all the processes outlined in the applicant guidebook to convey their opposition to the DCA application resulting in several Early Warning notices, consensus GAC Advice and objection, which included detailed rationale for the objections and advice. The DCA was provided with several opportunities to address concerns raised by their application, which did not meet the ICANN new gTLD applicant guidebook requirements and lacked the requisite support from governments and relevant government authorities in the region.

African governments therefore reasonably assumed that they had completed every step expected of them to ensure transparency and fairness in raising their concerns and objections against the DCA application.

Despite this, the DCA went ahead to launch several unwarranted challenges involving the use of ICANN review and reconsideration mechanisms that have took over two years, including litigation launched in the United States of America courts, where ICANN is based. A court in California has, as a result, compelled ICANN to halt any delegation activities of dot Africa to the AUC/ZACR application while the case continues to deliberate in California.

These challenges to delegating a regional geographic Top Level Domain raises important principle concerns for the Africa region and others over the issue of jurisdiction, who should control the delegation of critical regional geographic names like dot Africa, the role of governments and intergovernmental organizations in the ICANN multi-stakeholder model and the effectiveness and reliability of government protection mechanisms for ccTLDs and geographic names related to their distinct regions.

As the court case in the United States of America continues to deliberate, African stakeholders who have not been consulted, despite being materially affected and prejudiced, are powerless to enforce their needs to implement this critical initiative as judges in California courts continue to delay the process.

# 3 Recommendations

1) **Governments are encouraged to enhance national reference in the ISCO 3166-2 list with different divisions and subdivisions in order to satisfy the national requirements and needs. African governments should submit requests to ensure that regions and sub-regions are included in this important reference list.** The ISO 3166-2 list currently includes different types of country subdivisions names: districts, cantons, provinces, states, regions, cities, and territories, among others.

2) There may be a need in the future for **additional geographic names that pertain to African countries and the Africa region**. The Internet is developing at a rapid pace, and new ideas concerning the use of domain names are constantly emerging. Therefore, **African governments should maintain the right to request the reservation and oppose the delegation of any top-level domain (even if it is not included on that list) on the basis of its sensitivity to regional and national interests**. This right should be extended to all future rounds by working with ICANN to develop policy and appropriate safeguards to ensure responsible management of TLDs of national and geographic importance without undermining the multistakeholder structure and processes unique to ICANN.

3) Noting the challenges encountered with the recent round of new gTLDs relating to geographic names and the lack national strategies or regulations on handling cases where national authorities and ICANN both set the terms for implementation of new gTLDs, country, territory and regional names must be protected and reserved from registration as new gTLDs. **These names should include but not be limited to capital cities, cities, sub-national place names (county, province or state) and geographical indications**.

MOD AFCP/42A22/1

RESOLUTION 47 (REV.HAMMAMET, 2016)

Country code top-level domain names and geographic names

(Florianópolis, 2004; Johannesburg, 2008; Dubai, 2012; Hammamet, 2016)

The World Telecommunication Standardization Assembly (Hammamet, 2016),

recognizing

*a)* relevant parts of Resolution 102 (Rev. Guadalajara, 2010) of the Plenipotentiary Conference;

*b)* Resolution 133 (Rev. Guadalajara, 2010) of the Plenipotentiary Conference;

*c)* relevant outcomes of the two phases of the World Summit on the Information Society;

*d)* the evolving role of the World Telecommunication Standardization Assembly, in accordance with Resolution 122 (Rev. Guadalajara, 2010) of the Plenipotentiary Conference,

considering

*a)* that issues persist in some cases with respect to the delegation of country code top-level domain names (ccTLD) to entities designated by national authorities;

*b)* that Member States represent the interests of the population of the country or territory for which a ccTLD has been delegated, as noted in *recognizing g)* of Resolution 102 (Rev. Guadalajara, 2010);

*c)* that countries should not be involved in decisions regarding another country's ccTLD, as noted in *recognizing i)* of Resolution 102 (Rev. Guadalajara, 2010);

*d)* that intergovernmental organizations have had, and should continue to have, a facilitating role in the coordination of Internet-related public policy issues;

*e)* that international organizations have also had, and should continue to have, an important role in the development of Internet-related technical standards and relevant policies;

*f)* that ITU has a record of successfully handling similar issues,

noting

*a)* that one of the differences between the administration of the ccTLDs and the gTLDs is the national sovereignty of the administration of the ccTLDs as opposed to the global and ICANN managed administration of gTLDs;

*b)* the challenges encountered with the recent round of new gTLDs relating to geographic names;

*c)* the lack of national strategies or regulations on handling cases where national authorities and ICANN both set the terms for implementation of new gTLDs,

instructs ITU-T Study Group 2

1 to continue studies, and to work with Member States and Sector Members, in their respective roles, recognizing the activities of other appropriate entities, to review Member States' ccTLD experiences;

2 to study necessary measures that should be taken to ensure that country, territory and regional names must be protected and reserved from registration as new gTLDs; and that these names should include but not be limited to capital cities, cities, sub-national place names (county, province or state) and geographical indications;

3 to study, in collaboration with relevant bodies, on ways and means to maintain the right of Member States to request the reservation and to oppose the delegation of any top-level domain (even if it is not included on that list) on the basis of its sensitivity to regional and national interests,

instructs the Director of the Telecommunication Standardization Bureau

to take appropriate action to facilitate the above and to report to the ITU Council annually regarding the progress achieved in this area,

invites Member States

1 to contribute to these activities;

2 to enhance national reference in the ISCO 3166-2 list with different divisions and subdivisions in order to satisfy the national requirements and needs;

3 to submit requests to ensure that regions and sub-regions are included in this important reference list,

further invites Member States

to take appropriate steps within their national legal frameworks to ensure that issues related to delegation of country code top-level domains are resolved.

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