

APNIC EC Meeting Minutes

Teleconference

Friday 9 November 2001

Meeting Start: 11:00 am

Minutes

Present:

Geoff Huston
Qian Hualin
Xing Li
Che-Hoo Cheng (Chair)
Akinori Maemura
Paul Wilson
Anne Lord
Irene Chan
Gerard Ross (minutes)

Apologies Received:

BK Kim
Kuo Wei Wu

Agenda:

1. Agenda bashing
2. Review of previous minutes (Taipei)
3. Financial report for October 2001
4. ICANN-RIR relationship agreement
5. APNIC Ltd (Seychelles) windup - update
6. AOB
7. Next meeting

1. Agenda bashing

No changes.

2. Review of previous minutes (Taipei)

- It was noted that KPMG expects to circulate a draft report of the member survey by the end of November, for EC review before the December teleconference.
- There was a request for a correction to the section relating to the Director General's Member Meeting report, specifying that the proposed global allocation pool relates to IPv6 space only.
- The minutes were accepted subject to the amendment discussed.
- **Action:** Secretariat to post results on web site.

3. Financial report for October 2001

- It was noted that the budget was prepared on an exchange rate of 59 cents; however, throughout the year the rate has been approximately 51 cents. It was explained that the difference has been in favour of APNIC. It is expected that total expenses at end of year

will be 9.8 percent below budget, however this exchange rate advantage is not guaranteed in future.

- It was also noted that actual revenue figures are still running very close to projections (which were considered conservative at the time). However, it was noted that in the last two months, membership growth has slowed considerably and APNIC will need to make more conservative projections for 2002.
- It was noted that although there was low membership growth, there were still some memberships moving into higher categories. It was also noted that the loss of a large member arose from a merger between the memberships of a company with its parent. It was noted that some mergers will result in category upgrades upon renewal, however the current membership tier system allows many mergers to occur without a change in tier, which may still be a problem in future.
- A question was raised about the effect of the September 11 events on the exchange rate to be used for the next budget. There was a discussion about the status of the AU dollar investments, which has not changed as expected prior to September. It was also noted that any weakness in the AU dollar generally works in APNIC's favour.
- The EC was asked for opinions of the economic climate in the region. It was noted that projections are difficult and that it is hard to predict beyond two quarters.
- It was agreed that the next APNIC budget must be approached conservatively.
- It was noted that the income levels are expected to either remain stable or drop and that the drop is not likely to be more than ten percent. It was also noted that the cash holdings of APNIC ensure that a conservative budget will be achievable without any major revision to APNIC's operating structure or future plans.

4. ICANN-RIR relationship agreement

- It was noted that there was a telephone conference last week amongst RIR staff and ICANN staff and that the parties now appear to be converging on a reasonable agreement.
- It was explained that the major remaining issues are:
 - Section 3.1 which describes a special case for a period of policy development relating to IANA's ability to make direct allocations outside of the RIR process. The RIRs' position has been that IANA should not make any allocations outside of the RIR process, but IANA has been firm in reserving the right, under the request of the IETF, to make special allocations. It has been suggested that the PSO is not likely to support the contract unless this direct allocation provision remains. The EC asked whether this position had been expressed formally by PSO, and suggested that this be verified.
 - Sections 3.2 and 3.3, which specify that the ASO MoU would take precedence in construing the documents relied on by the Agreement. It was noted that these changes were agreed to by all parties at the recent meeting.
 - Section 6.3 regarding limitations on ICANN actions that affect RIRs. This section notes that ICANN will not authorise any other organisation within RIR regions to allocate address space, except in accordance with any policy developed under section 3.1.
 - Section 7 regarding dispute resolution. This section proposes that arbitration be under be under International Chamber of Commerce arbitration rules. ICANN is proposing strongly that New York be the single city for arbitration. Singapore had also been proposed previously, as had London. However, it was noted that RIPE NCC appears likely to accept New York.

It was suggested that a single arbitration city should be settled for the sake of certainty. It was noted that the selection of an American city would raise concerns of disadvantage to any non-US entities, as any appeals would probably need to be taken to US courts. The relationship of

ICANN to the US Department of Commerce was also noted as a possible disadvantage, raising the impression that impartiality would be difficult to achieve in legal proceedings.

It was suggested that ICANN was not likely to accept a non-US jurisdiction, but that London may pose fewer problems. There was a suggestion that Singapore, Paris, or Geneva would be better choices than London or New York.

It was agreed to strongly stress a view that the draft contract does not reflect a truly international system, and resolved that APNIC's position is that Singapore should be nominated as the arbitration city.

- Section 7.2 contains several changes with regard to the appointment and payment of arbitrators. There has also been a concession made by ARIN relating to the circumstances which can give rise to litigation. It was noted that this section now limits litigation to injunctive relief and enforcement of arbitration awards.
 - Section 8 now states that matters affecting RIRs shall be subject to judgment in the jurisdiction in which they are established or incorporated. It was noted that this may ease some of the concerns of a single city of arbitration being in the US.
 - Section 9b deals with the circumstances of RIRs withdrawing from the agreement.
 - Section 11.2 deals with succession and assignment of the contract. ICANN has advised that it will assign all contracts back to the US government if it is wound up. Therefore, ICANN is currently unable to agree to the current section 11.2. ICANN has advised that it will approach the US government for a waiver of the pre-existing commitment to assign contractual rights.
- **Action:** PW to report APNIC's position to the other parties, that Singapore should be nominated as the arbitration city.
- **Action:** GH to investigate the PSO position regarding Section 3.1.

5. APNIC Ltd (Seychelles) windup - update

APNIC has received a US\$1,000 quote from a legal firm for winding up the company. KPMG have also advised that the company assets can be transferred by gift to APNIC without any taxation implications.

6. AOB

- Regarding the transfer of xxnic.net domain names, it was noted that there have been some expressions of interest and that APNIC staff are investigating the transfer procedure.
 - It was noted that the Member Survey draft report would be circulated to the EC before the next EC meeting. The EC were asked for a view on the necessity and timing of translation of the report. It was suggested that the report should be published in English first and only translated on request.
 - It was suggested that APNIC should become more active in the discussions of the redraft of RFC 2050. It was noted that the ASO GA will be hosted in Bangkok in 2002 and this may be an appropriate place to further discussion of this project.
- **Action:** PW to provide an update on the status of the RFC 2050 redraft.

7. Next meeting

Friday 14 December, during IETF week. It was decided to check schedules and decide by email whether to reschedule this meeting.

Meeting closed: 12:05 pm