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Report of the 232nd meeting of the GAC on 19.07.2011 in The Hague

Summary

The 232nd meeting of the GAC (General Advisory Committee) was the fifth GAC meeting of 2011. The agenda comprised a document concerning reorganisation of departments in Patent Administration, a document on migration of FIPS data to the Lotus Notes calendar and a document on implementation of areas of competence in DG1.

Reorganisation in Patent Administration

The proposed reorganisation of departments in Patent Administration (PatAdmin) comprised two independent parts. One, affecting The Hague, concerned integration of the unit Special Searches and Output (SSO) into Front-End The Hague (FETH). The other concerned integration of the unit Client Data Registration (CDR) into Front-End Munich (FEM). Since each measure affects staff at one site only, it was originally intended to discuss each topic in the appropriate Local Advisory Committee (LAC). However, the President decided that the GAC should be consulted instead. The justification for this was that both reorganisations take place in the framework of a Principal Directorate (PatAdmin) which operates cross-site.

Unfortunately, the administration did not make the effort to re-draft the documents that should have been submitted to the respective LACs into a single GAC document. Rather, they merely submitted a document comprising a cover sheet and a random pile of annexes. It was not really clear on which part of this the GAC was being asked to give an opinion on. This did not become any clearer from the information provided to the GAC by the administration's expert.

In the end, we stated that, due to the vagueness of the document itself and the information provided in the meeting by the expert, we were not in a position to give a full reasoned opinion on the document. Moreover, we considered that the LACs in Munich and The Hague should be consulted as originally intended. On the basis of the discussions in the GAC, we did, however, make a number of comments which we considered should be taken into account for said further LAC consultations. These included:

- continuity in reporting had to be maintained within the departments, in particular given the fact that the work performed by the different units differs significantly;
- although the document states that it is not currently intended that staff members' tasks should change, we were concerned that in this respect the document talks about an "initial phase", which raises questions such as what the time horizon is or what the long term effects on staff members will be;
- no expert post is planned in The Hague for the merged unit; although it is unclear what the long term situation in Munich will be, at least for the short term a procedural expert will be in the merged unit in Munich. Given the units' sizes and the specialised and heterogeneous nature of the tasks performed, it seemed to us that it would be desirable to have permanently an expert post (i.e. a SCAPE) in each unit

i.e. one in Munich and one in The Hague;
- no cost-benefit analysis was provided for the proposal. Moreover, the administration's expert failed to explain how the alleged benefits of smoother running and better coordinated units would result from the proposal, particularly since it is admitted that the merged units perform significantly different work.

The members nominated by the President gave a positive opinion on the proposal. They did, however, make a number of observations. Most of these were merely to disagree with our observations. In addition, however, they made the valid observation that the impact of the IT Roadmap projects in this area had to be carefully monitored in order to ensure that the new workflows and tools brought the "expected benefits in terms of quality".

Interface to migrate FIPS data to the Lotus Notes calendar

According to the administration, the flexi-time review showed that both management and staff would like better indication of absences and attendances in the Lotus Notes (LN) calendar. Currently, only annual leave, which is anyway requested via LN, is automatically visible in the LN calendar. The administration thus presented a proposal whereby FIPS absence and attendance data are migrated to the LN calendar. This means, data on absence (or attendance) for missions, training, home leave, special leave, sick leave, flexihours and compensation hours. For data protection reasons, the exact description of leave entries will not be included. Moreover, according to the proposal, absences due to part-time work, reduced working time and surplus or deficit hours will also not be transferred.

The measure should make it easier to see if a colleague is in work, either at that time or in the future e.g. if a meeting needs to be planned. The GAC considered that implementing the proposal would be a useful aid to staff. The GAC thus gave a positive opinion on the proposal. However, the GAC also made a number of observations including:
- this tool is only useful if calendars are open. However, a number of staff have closed calendars and do not know how

to open them. The GAC thus suggested that, in the communication informing staff of this feature, staff should be made aware of this and informed clearly how to open their calendars;
- the GAC suggested that IM examine again if the transfer of absences due to part-time work are indeed impossible to transfer from FIPS (where the data must be stored) to LN;
- the GAC was concerned that it seems that LN will be replaced in the medium term. The members hope that the functionality added by the current proposal will not be lost at that time.

Areas of Competence (AoC)

The administration submitted a document with the title "Procedure to support implementation of Area of Competence in DG1" to the GAC for opinion.

For the administration, Mr Hey was present at the GAC as an expert. He claimed that it should be obvious that setting up AoC would lead to improved quality, efficiency and working conditions if all examiners in any field were together at one site. However, for historical reasons relating to the introduction of BEST, this was not the case.

Mr Hey further explained that discussions on AoC started in 2008, at which time GAC/DOC 44/2008 was submitted to the GAC. Following on from this, a recommendation was sent to the MAC. Since this time, various meetings have taken place between the CSC and management on how AoC should be implemented. The concept has now been developed and management intend to extend the AoC concept by supporting the setting up of AoC in DG1 in a pragmatic manner, where appropriate. Whilst so doing, the interests of the individuals affected had to be taken into account. That said, the speed of the roll out is a managerial decision, as is the decision as to where (i.e. the technical field) an examiner works. Applying management discretion, this decision may be made in dependence on the amount of innovation in a particular area. Turning to the document, he explained that the main object of this GAC consultation was the dispute resolution part of the document, and the need to put in place a process for this. Part of this is to have a procedure which ends in a

clear decision against which the staff member may appeal.

In the GAC, we explained that the President had asked the GAC for an opinion on the whole document. The document comprised a background to AoC, sections on setting up an AoC, on consultation and on conflict resolution. We intended to give an opinion on the whole, and not limit ourselves to just one part.

Concerning the background to AoC, we noted that a clear definition of AoC is lacking. For example, it is unclear what a technical field is and it is unclear what size an AoC should be or what the timeframe for setting up an AoC is. Moreover, not only is the document lacking in any cost-benefit analysis, but the administration was in the GAC unable to provide any figures as to the costs of introducing AoC. From our own information, these seem to be significant. For example, for Berlin it seems that the costs are estimated to be 2000 days over three years. Moreover, in 2009 a so called "Best Practice" document was drawn up for implementing AoC. It is unclear if this is still supported by DG1 management.

Concerning the creation and implementation process we noted that this section of the document merely states that staff will be informed and that a plan could (sic) be drawn up to implement the AoC. A list of items that could be in the (optional) plan is then given.

Concerning the consultation part of the document, the section starts of well by stating that "it is best practice to involve staff when organisational changes are contemplated". However, the rest of this section sets out that examiner involvement in the creation of AoC is limited to cursory consultation. Indeed, it seems that the process can be summarized as:
- the Principal Director decides;
- the Director is involved;
- the examiner is informed!

We stressed that the examiners should not merely be consulted. Rather, they should be actively involved. This is particularly so if setting up AoC will result in examiners having to work in (for them) new technical areas. This involvement must include determining the training investments and other support which the Office will need to provide. Again, we noted that the "Best Practice" document gives some

guidance as to the consultation and involvement of the concerned examiners.

Concerning the conflict resolution process part of the document, we had serious doubts. In particular, the process outlined does not seem to be adapted to other procedures in the Office, for example the internal appeal procedures.

For these reasons, we gave a negative opinion on the proposal. Moreover, we made a number of suggestions of steps that should be taken before proceeding with the creation of further AoC. These included that:
- a study should be made of the experiences made up until now with AoC. This would allow the administration to determine under which situations setting up an AoC is worthwhile;
- the measures affecting staff should be re-considered and re-drafted (in both form and content) in the light of the observations made in the GAC. This must then be re-submitted to the GAC for opinion;
- the "Best Practice" document should be respected and the measures set out therein followed before creating an AoC.

The members nominated by the President gave a positive opinion on the proposal. To their opinion, however, they annexed a number of concerns similar to those expressed by ourselves.

The members of the GAC nominated by the CSC.