

January 31, 2005

To: H.E. Mr. Deolindo Costa
Minister of Public Works and Infrastructure
Sao Tome & Principe

From: Ari Q. Fitzgerald
Partner
Hogan & Hartson L.L.P. law firm in Washington, DC

Re: Liberalization of Telecommunications Sector in Sao Tome & Principe
1. Regulatory Authority for Telecommunications Sector
2. Recovery of Country-Level Domain Name from Swedish Company

I visited Sao Tome & Principe from December 4 – 11, 2004 with the objective of advising the Ministry of Public Works and Infrastructure on the establishment of a regulatory authority to oversee the telecommunications sector in Sao Tome & Principe, which is gradually being liberalized with two laws coming into effect in 2005 and 2006; and to offer advice for recovering the country-level domain name from the Swedish company Bahnhof, which is operating the .st domain name without official authorization from, or compensation to, the Sao Tomean government.

Regarding the regulatory authority, I offered the following assistance:

- a. a discussion of the authority with the Minister and Mr. Armindo Gongaza which covered the authority's structure (number of departments, staff and required expertise), the need for consultation with the public; transparency; budget; conflict-of-interest avoidance; the relationship between the Ministry of Public Works and Infrastructure and the Authority.
- b. A half-day session on licensing issues.
- c. A half-day session on universal service and universal access.
- d. A review of the draft license for CST, the incumbent fixed, mobile and international long distance provider.
- e. A half-day session on interconnection.
- f. A half-day session on spectrum management and spectrum policy matters, including frequency allocation and assignment.
- g. A half-day session on competition policy
- h. Meetings on the domain name issue.
- i. I drafted a letter that the Minister would subsequently send to the Swedish Minister of Telecommunications regarding the country level domain name currently being managed by a Swedish company.

Recommendations

- a. More needs to be done with the CST license, to properly delineate the obligations of CST, and the benefits it receives under the license.
- b. I have requested, but have not received, a copy of the law establishing the regulatory authority. This law was being studied by the legal advisor of the president, and was awaiting the president's signature during the time of my visit. I do not know whether it was subsequently signed.
- c. The Ministry should urgently request assistance from the World Bank (contact information: Mr. Svet Tintchev, Senior Telcom Engineer, Global ICT Department, World Bank, Telephone: +1-202-473-75-60, E-mail: stintchev@worldbank.org) to help Sao Tome & Principe develop the regulatory framework and capacity needed to ensure that competition actually develops once CST's exclusivity on mobile and international long distance ends in January 2006. Because the regulatory authority is just beginning, and with no experience of a liberalized telecommunications sector in Sao Tome & Principe, I would recommend that the government ask the World Bank for a long-term consultant who can spend some months with the new staff of the regulatory authority to get it up and running.
- d. The Ministry should also request further assistance either from the Bank, the ITU, USAID or perhaps UNDP, for work on spectrum policy, including the development of a domestic table of allocations, and universal access (extending the telecommunications network to rural areas, and making it accessible to the very poor).
- e. The Ministry should also request assistance, perhaps from Portugal or the European Union, to ensure that CST does not create difficulties for future competitive operators who seek interconnection with CST, and does not seek to increase the cost of competitive entry.
- f. Before liberalization can take place, the new authority needs to organize public proceedings on a variety of issues, including interconnection, universal access, CST's license obligations and related matters. Funding could be requested of USAID, or perhaps some of the capacity-building funds provided to Sao Tome & Principe in the World Bank's most recent \$5 million loan could be diverted from the petroleum sector to telecommunications capacity building for this purpose and some of the other points mentioned above.

- g. For further progress on the country level domain name issue, the government of Sao Tome & Principe may need to be in direct contact with ICANN (Michele Cotton, Tel: 1-310-301-5812, E-mail: cotton@icann.org) since there is still some confusion within ICANN regarding whether Bahnhof and Mr. Aginaldo Salvaterra were officially authorized by the government of Sao Tome & Principe to manage and administer the country level domain name. ICANN must ultimately approve any re-delegation of the rights to manage and administer the domain name, and before agreeing to such action ICANN would be interested in knowing how the government would ensure the continued stability of the domain name and proper service to the people of Sao Tome & Principe.
- h. Sao Tome & Principe should enlist the assistance of the Swedish ambassador in Luanda, who is interested in helping with the domain name issue.
- i. The Government of Sao Tome & Principe should consider how to incorporate telecommunications and information services into its national economic development plan. Such a plan should consider how an expanded telecommunications sector could enhance Sao Tome & Principe's ability to attract foreign investment, including investment in industries that rely heavily on telecommunications and information services, such as call centers and other telecommunications-dependent businesses.