

**ICANN Costa Rica Meeting
Geographic Regions Review WG Final Report - TRANSCRIPTION
Saturday 10th March 2012 at 17:00 local time**

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Coordinator: This conference is now being recorded. If you have any objection you may disconnect at this time.

(Rob): ...very, very broad background. The geographic diversity is a core component of ICANN's operations. And as many of you know ICANN is currently broken up into five geographic regions, which I have up on the screen there.

But why a review of the geographic regions? Well, first of all it's anticipated in the bylaws that ICANN will, on occasion, look at its geographic regions, review them to make sure that they continue to match evolutions in the industry and (unintelligible) 2007 and said, "This hasn't been done in a while, it's really time for the community to work through this."

The Board agreed, with the support of the GNSO Council, they approved a community-wide working group, the concept approved in '08, the charter for the group approved in '09. The working group is essentially made up of two representatives from just about every SO and AC except for SSAC and RSAC.

So far the working group has produced two reports. I think we've got four or five members of the working group at various parts of this room right now. So they put together a very good, I think, set of documents that really outlined the history of ICANN's geographic regions, how they've been applied over time, really spent a lot of time doing the background work.

They produced a final report, a draft final report, toward the end of last year. The concept the working group had was that they would share with the community this draft report in the hopes that they would get community comment, feedback and things like that.

Now before I get into the specifics of some of the recommendations of that report and what the community has reacted to I thought it was important just very briefly to highlight for you the GNSO's principles with respect to approaching this.

And I do that in this venue because later this year the Council will be asked to comment on the final report, not draft, but final report, and it may be useful for you all to look back at the principles that the GNSO started very early in this process.

This presentation is going to be on the session page. I'm not going to go through the 12 Principles with you because I don't think that that would be productive today. But I think it would be helpful for you to go back and look. These were principles that this body adopted back in August of 2008. So it has been a period of time, but the group that worked on it and the council in approving it really was looking at them being very long-term principles, some real fundamental principles.

And so as you all will be asked later this year to look at this, I think it's important that you be aware of them. The Council broke up the principles into two areas, one, the relevance of geographic regions by themselves, and then

some principles that would govern the change of regions, or a potential change of regions.

And so I think it's very important to look through those in whatever group you end up assigning as a subcommittee or as a committee of the whole to react to the final report, I think these principles are going to be a touchstone that you'll want to look at. So again, I'm not going to go into those in detail. I'm happy to talk about any of them but I'm not going to use up your time today going through them.

Let's talk a little bit about the findings in the draft final report of the working group. Fundamentally they said geographic diversity is a critical principle. It should continue within ICANN. It's something that should be preserved and supported.

They really spent some time talking about the fact that it's not just geographic diversity anymore, there's been evolution in the industry, in the use around the globe of the Internet, and so when we're talking about diversity there are also concepts of function, of culture and of language. There are also commonalities that exist in terms of economic status and other things that are important and that various members of the community could identify with.

They made a determination that no one has really challenged that the number of regions should probably stay around where they are. In other words, if you were to change the regions there'd be some significant financial and organizational issues for ICANN as a whole. So that was their finding, one of their recommendations is not to change it.

And, you know, after some substantial research determined that there really is no independent authoritative list of countries and regions that ICANN could just go out and adopt. There are many different organizations globally that have lists of countries and regions, but there's no authoritative list that matches up with everything else that's going on, and certainly not only that

they would immediately call upon ICANN to adopt. I'll note a slight inconsistency in that when we get to the next slide after this.

The fundamental approach of the final report that the working group has come up with is essentially two fold. One is top-down, a recognition that geographic diversity was first a principle that was only applied to the Board of Directors, and so the working group's draft recommendation was ICANN should continue to maintain this formal traditional top-down structure, particularly for the Board.

And that if an individual SO or AC wanted to adopt that, that would be great but there would be flexibility in terms of how SOs and ACs might choose to react to or act in concert with that framework.

The other piece really reflects an expectation of a changing ICANN over the next several years, and that's a recognition to support less formal dynamic bottom-up type grouping, as I mentioned in the previous slide, of special interest groups that might come together in various forms for different purposes, common interests might be - and I've given an example of some geographic distributions, small island states, Arab states or Caribbean Islands.

A number of these, particularly small island states and Arab states there were specific comments over the course of the past couple of years where there's been an expression of interest in doing that and having those types of groups get formed.

So, I mean, a number of recommendations, and these are just the highlights of several of them. The fundamental one that the group suggested was using the regional Internet registries as a starting point to look at that as a new structure for ICANN. Why? Because it seems to match the infrastructure of the Internet of the DNS, that's what ICANN exists for and so there's some basic logic there.

Secondly, and it's a proposal that's received a lot more interest and I think opposition from the community, and we'll talk on that a little in the next slide is that the group proposed to allow countries to - let's step back. If you accept the Regional Internet Registries concept or model then you really have to look at some changes that might take place in the geographic framework and that would necessitate some countries moving out of some regions and moving into others, a significant number, it's not a nominal or a minimal number at all.

And so the original draft proposal was to allow at least one-off situation an opportunity for anyone who was being moved to say, "I don't want to move, please keep me where I am."

And then two other major areas considering a more general rights (stuff select) with government agreement so that if a country or a region went that route that they would make sure that within their own country there was buy-in from all of the significant parties in that country, the government, the Internet community, the members of the ICANN community who participated all need to come together on that.

And then finally, and I mentioned this earlier, the SOs and ACs could use the top-down structure if they want, but they could also adopt their own approaches. I mean one of the things that the research of the working group determined was that over the years there really hasn't been a cohesive strategic approach to geographic diversity within ICANN and that at-large versus GNSO versus ccNSO have all adopted diversity principles but in different ways and so no one SO or AC really looks the same and that's probably a good thing according to the working group members.

So this went out on public comments in the October timeframe. Community members had through December to - or the middle of December to comment.

And in general there were concerns that had been expressed about the RIR model.

It's not a perfect model. A number of people have expressed criticisms of it. I think in particular the at-large advisory committee was quite concerned about it. I'm not turning around, Cheryl. And so as a result that's one issue.

Secondly, almost overwhelmingly that ICANN should not do anything that would get it embroiled in political disputes. And if any of you quickly read the GNSO principles that was quite consistent with what the GNSO originally said.

Another comment that was echoed by a number of players was that flexibility is good for supporting organizations and advisory committees. There was a lot of interest in this concept of special interest groups but a notation that they do offer not only opportunities but challenges and a real concern that this not just be viewed as window dressing. I think we're going to have some substantial implementation issues with that over time. But as you'll see shortly there's going to be plenty of time.

And then finally, most fundamentally that opt-out process that the group recommended and that I flagged in the earlier slide, the feedback was really - that's not a good idea, let's look more at an opt-in type approach where you would give individual countries or territories the option to say, "I would like to change," versus, "You're forcing me to change and now I have to pull everybody in my country or region together and sort of fight what ICANN is doing."

So those were all general community comments that were provided. At this stage the staff has produced a summary report of those comments. We've also published a tracking list of all the various comments for use by the working group. Consistent with what my colleagues and I have been doing for probably the last eight or nine months now is that we not only publish this

tracking checklist initially when we do the summary report but we try to keep it updated and ultimately use that when it comes time for a Board decision.

The concept and idea there is that the community gets to see, you know, the specific comments or issues that were presented by the community and that there's a linkage to see how they were ultimately addressed. So that's a component that we're constantly trying to strive for.

So the working group is going to review the comments. They're going to discuss whether they want to make changes or make adjustments, and they'll finally publish a final report. That is not a draft report, but a final report. I'm being very flexible in terms of the timeframe there. I would expect that they will, you know, finish that sometime in the (prog) timeframe.

What's important, again, from a GNSO Council perspective is that according to the charter of this working group is that the time the final report is completed it will be transmitted to the various supporting organizations and advisory committees for comment. And while you've all, in the case of the GNSO there have been representatives and I should acknowledge Ching and Zahid and the past work of (Over Kabali) to participate in this group it'll be a new fresher opportunity to comment in a formal way.

After those comments are in there'll be the opportunity for the Board to then declare its own public comment period. And so it's not likely that there's going to be Board review and action of this until late 2012.

Again, I appreciate the opportunity to talk about this today, (Stefan), because I would expect that in the next three or four months, probably earlier, you'll have an opportunity of a Council to discuss this matter. And so it's useful here in Costa Rica to raise it with you.

I'm happy to take any question or comments that you have.

Stephane Van Gelder: So I see Zahid, Marilyn, Lanre, that's about it for now. Zahid?

Zahid Jamil: I take the point that I was supposed to be tracking this but I have questions. They're more sort of clarifications to see how this would be implemented, and if you, (Rob), would be able to shed some light on them.

When we talk about bottom-up and talk about special interest groups, the idea is that countries can caucus around whatever grouping they think is comfortable for them. It's nice to say that in a principle, the question is what are the rules for that because that can change from situation to situation, from issue to issue, one, that's my first question.

Second, I see this thing about one-off movement and self-selection. I'll let you take that on the first question. I'm sorry. So the first one is about bottom-up and special interest groups, the second is one-off movement, self-selection, I take that as a bundle. How would one do that? What are the criteria, if there is any at the moment thought out?

And then there's something countervailing against that idea which is that every SO and AC will be able to decide its own geographic makeup and can have flexibility. So the geographic diversity or regions could be different in allocation for the GNSO as opposed to the ccTLDs or ccNSO or maybe even the GAC or whatever, or even the ALAC, right?

So here's - I'm having difficulties. If a country is self-selecting that, "I will be in this region," and an SO or AC is saying, "No, but for us you are in another region," how do you work that conflict out, one, because these are two very, if I understand correctly, conflicting ideas, both of them can't function. So how are we going to implement that because we're giving the SO and AC the right to move people around and we're giving the countries the right to self-select. So how's that going to work?

And what opportunity do we still have to try and go back and work on this draft?

(Rob): I count four, let me see if I'm got it right. It's interesting, and we can look down the table, I think Mary's still down there, the credit for the concept of special interest groups in some respects can go to Mary and Avri. And in the context of the concept in some way has come out of some of the work that the NCSG has done in terms of saying, "You know there are other approaches than just this traditional formal type model."

That there are varieties of groups whether they are around special interests, a particular position on an issue or, again, as I noted there are commonalities that bring them together to create opportunities for them.

Now you could argue in the present ICANN structure if you wanted to be plumber's helpers and all get together and file comments in a public comment period you could declare the plumbers helpers group or something. So that flexibility already exists in the ICANN system, but I think one of the tensions that the working group experienced and felt very strongly was - and you'll recall back to the findings slide, it's not likely - they're not going to recommend that we change the number of regions and yet there needs to be flexibility to recognize that there's opportunities for these groups.

So we give the SOs and ACs within their processes the opportunity to create these groups. There may be, once the Board starts talking about this, a growing interest on the part of small island states or various language groups to raise this up the profile of these issues. I'm not sure about that but I think the bottom-line there was it's a balancing of the working group to recognize that the number of regions aren't going to change but to provide some sort of mechanism for flexibility.

Now the moment I say "mechanism" you asked the question "implementation." And I think the challenge there is that the working group

hasn't discussed specific implementation and a big part of the draft final report that I didn't really have the power to comment on was the fact that well, staff will implement this and so that creates a challenge.

Now I'm the first to observe, I wasn't around at the time, but staff was asked to implement the original geographic region structure and what the working group found was that over about a 5-year period the staff unilaterally in some respects moved away from that and ICANN generally moved away from because we started to have new advisory committees get formed, new supporting organizations who essentially evolved over time.

So I think that - I want to go through the four and then we can do the follow-up questions. The concept - let me jump to your third question which was, "Well, what do SOs and ACs do?" I want to clarify, and I apologize if I misspoke, the recommendation is not that the SOs and ACs will define geographic regions, no, no. But what they can do is apply the geographic diversity principles flexibly on their own.

The GNSO Council, or the GNSO, has already done this. You're (recalling) GNSO improvement effort. Some of your individual constituencies and stakeholder groups had issues about how do we apply geographic diversity, and there were negotiations and ongoing back and forth about how some of the charters should be structured.

So the GNSO has already been a beneficiary of this flexibility and in many respects all the geographic regions review working group is recommending is that the Board formally acknowledge that SOs and ACs are doing this. So let's just, you know, say that they have that capability.

You talked about the opportunity to - this one-off type concept, and let me explain that and the self-selecting and I hope I didn't mix and match those. The concept was, and the original recommendation is, the Board were to adopt its original draft recommendation as of a date certain there would be a

new set of structures that would cause certain countries to move to new regions and a recognition that that would create some consternation or concern.

Some countries and territories would be delighted, others would not have any interest in moving. And so the concept of one-off was to say, "You have one opportunity," implementation wasn't discussed, hasn't been discussed yet, whether it's a 6-month period or 2-year period or whatever to say, "I don't want to move and I want the opportunity to talk within my own community, my own territory, for us all to get together and say, 'We don't want to move.'"

I think the community feedback came and said, "That's unfair. You shouldn't put people in that position. Why don't we create a system where if you want to move you just declare that you want to move and maybe we don't even have to change this whole framework or structure."

So there's - the wisdom of the working group was that we go out with a draft final report first, and I think now the community has come back with noting a couple of issues. And to one of your other questions what the working group will now do over the next couple of months is sit down, go through the tracking checklist and say, "Yes, should we change that? Should we not?" And if so, then they shall do so, you shall do so, and the final report will be then the opportunity for the broader community to again comment on it.

Stephane Van Gelder: Can we let others speak? I had Marilyn and Lanre next. Marilyn?
Okay, Lanre?

Lanre Ajayi: Thank you very much. I just want to know what actually (unintelligible) the need for this review by the time the idea came. Was there any in particular (unintelligible) to them to have let people think if the regional geographical region has to be reviewed?

(Rob): I think the fair answer is yes and no. One, as I said, the bylaws require a review to take place and so ICANN's processes require review. But there was a triggering factor and that was the ccNSO approaching the Board to remind the Board that the review hadn't been initiated.

Now, I leave it more to ccNSO liaisons or others who are much more familiar with the ccNSO that there were some concerns within the ccNSO about how many of the various ccTLDs are in regions that may not match either where they are geographically, and there are many issues of territories and regions. So there are many issues throughout the community, the ccNSO happened to be the triggering mechanism to sort of get the ball rolling.

Stephane Van Gelder: Marilyn?

Marilyn Cade: So I think - Marilyn Cade for the transcript. I think it's kind of obvious to me. I did read this - I'm trying to remember, I think it was right before Dakar and I had a conversation with a few people about it and as many of you know I work in a number of the organizations where - that are primarily government to government and government to IGOs and I agree that there's no single model for determine a region.

But I'm not comfortable that we have fully either within the Council or within the stakeholder groups, or within the GNSO considered the implications of some of these recommendations or whether the idea that we need to have the ability for special interest groups to gather or to meet officially that that actually has anything to do with changing the regional structure.

I don't see how this voluntary thing works. I think that there are - we have to be politically sensitive to the fact that there are small islands that may not have the territorial - they may not have the legal authority to determine with whom they are aligned geographically for a geopolitical purpose.

So there's a lot to be thought about in this. We will take it up in the - and talk more about it in our discussions on Tuesday. I think I need to better understand what the problem is that we're solving and I'm not comfortable that some of the recommendations don't create bigger problems.

Stephane Van Gelder: So, Rafik?

Rafik Dammak: Thank you, that's Rafik speaking. I just saw in the presentation mention of Arab states. You are using the least of (countries) part of Arab league?

(Rob): If the Arab league chooses to form a special interest group, yes. I mean, I believe it was the Arab league that provided a comment to the working group.

Rafik Dammak: Yes. Because it includes a country which does not exist anymore. And in the Arab region we can even have sub-regions, the North Africa and the (unintelligible) and they have really different way of working. So if I am, for example, in some, I don't know, in some SO, if I am civil society from Tunisia I really don't want to try to make any kind of policy with people from oil rich country in Arab region because it's really hard.

And then if we make such region it can make complex for some countries there. So we should really be careful to create such new region. Myself, I don't want an Arab region. It will be complicated. I saw it in many space. So honestly I want to avoid such new thing.

And so you said I think it's the government can choose in which region. It's all government agreement? So I think for even civil society it will really be big problem and so that's what. For example, if - now Tunisia there is some changes but before if we like - the Arab region if it was civil society we'll be really doomed. I would hope to stay in Africa. It's more easy. We can work and make a common policy. If it's in Arab region it will be complicated.

(Rob): Something that the Council may want to consider in the future, and individual stakeholder groups or constituencies as well, is to have the Chair of the working group, David Archbold, speak to because he has a really neat presentation that shows the evolution of how ICANN got to where it is in terms of countries to region.

And also, some of the statistics which just show the complete rebalancing around the world of where people reside who use the Internet. And I think the real balance intention that the working group felt is you don't want to recommend too many changes to the ICANN structure but you want to be responsive to these changes that have taken place throughout the community.

And so what is the right balance there? This effort has taken a tremendously long time because there's been a lot of thought, and I think agonizing, over some of the issues Marilyn, Rafik, Zahid that you raised. And so all I can say is staff support for the group is that I know that folks have been thinking very hard about some of these issues and any comments they get they take very seriously. Thank you.

Stephane Van Gelder: Okay, we're on time, or just about. Marilyn, you have a comment and then I'd like to bring this to a close, please.

Marilyn Cade: I do have a comment. I'm noticing a refrain, and thank you so much for your comments, Rafik, I really strongly support them. But I'm noticing a refrain sometimes and I just want to caution us all about this, we're beginning to say, "We worked on something for two years," or "for three years" and therefore we've worked on it a long time so we're invested in it.

Sometimes you launch a research project or a product development project and you find out that it's the wrong product and so guess what, you can either go to market and fail, or you can start over. And I just want to caution us that we don't fall into the trap of saying, "Because we've worked on something for

a number of years that it's going to be the boat that takes us to Nirvana." It might not be.

(Rob): And if I may, Mr. Chair, the point is well taken. I mention that to point out the amount of time it has taken but not to suggest in any way that the working group would otherwise not listen to community feedback. Thank you.

Stephane Van Gelder: All right, thanks very much. I think this brings our discussions to a close for the evening. Thanks, (Rob), for doing those two presentations and we'll see you all at 7:00 later on. Thank you for your participations. See you later.

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