
BUENOS AIRES – GAC Human Rights and International Law Working Group

Monday, June 22, 2015 – 14:00 to 15:00

ICANN – Buenos Aires, Argentina

UNIDENTIFIED MALE: Today is June 22, 2015, Buenos Aires 53. The room is Atalaya. The event is GAC Human Rights and International Law Workshop.

MARÍA MILAGROS CASTAÑÓN SEOANE: We will start our meeting. Good afternoon to all of you, and thank you for coming and for showing your interest in these issues that are so important to all of us.

The agenda for today is, first of all, we should try to agree on the terms of reference. These terms of reference were circulated for two months, and indeed, the ones that you are watching on the screen include some of the comments that were made in time. But a couple of days after, we got another comment that changed the whole thing, so we will go back to that.

The other issue is the Cross-Community Working Group. Our colleague Niels ten Oever will let us know how the Cross-Community Working Group has been working on human rights. This group involves two issues: human rights and international law.

My co-chair is Mark from Great Britain, and I will ask him to speak.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

MARK CARVELL:

Yes. Thank you, Milagros. Good afternoon, everybody, and it's great to see such a large group attend this important session – this inaugural session for the GAC working group on human rights and the application of international law. It's an important time.

I represent the UK in the Council of Europe. The Council of Europe committee of ministers has just decreed a draft declaration on ICANN and human rights and rule of law. That was agreed within the last couple of weeks or so in Strasbourg, and, of course, the Council of Europe has a very wide membership of 47 states, so it's a very timely declaration by the committee of ministers in Strasbourg – who are the ambassadors for the member states in Strasbourg – covering ICANN's key role and its responsibilities in respect of advancing rights and respect for the legal provisions that prevail in this whole area in the activities of ICANN, the processes for developing policy, and decisions taken.

So I give you that as a context within Europe for this important agenda issue for ICANN, and as Milagros has indicated, it intersects with the Cross-Community Working Party. We're very grateful for Niels to be here to give us an update on the working party, and it's a key aim for the GAC Working Group to keep in step and ensure the lines of communication with the Cross-Community Working Party are mutually reinforcing, if you like.

I'll just say a quick word on next steps. The GAC in full plenary will have a very short, incredibly short (such is the pressure on our agenda times), half-hour session tomorrow at 2:00 to 2:30, when Milagros and

I will report on this session. That's in the GAC room San Telmo tomorrow at 2:00. Of course, we'll be reporting in particular on the finalization of the terms of reference for the GAC Working Group, and, no doubt, Niels will also signal the discussions on Wednesday, if I'm right, at 9:30 in Retiro B on this.

So that's my contribution to the scene setting for this work. Milagros, should I go back to you with regard to considering the terms of reference if that's all right? Thank you.

MARÍA MILAGROS CASTAÑÓN SEOANE: Does anybody have an opinion or a contribution to make on the draft terms of reference?

Suzanne, please, the representative of the United States?

SUZANNE RADELL: [inaudible]

MARÍA MILAGROS CASTAÑÓN SEOANE: The draft terms of reference were for comments for two months. We only received comments from the Council of Europe. That was it. We didn't receive any more comments.

The comments we received from you, from the United States, came after the closing date to receive the comments. As far as I recall, they

referred to the mention of international law. Can you tell us more about that, Suzanne?

SUZANNE RADELL: Certainly. I'm more than happy to do so. Regrettably, perhaps my name was not yet put on the working group mail list because I never did see the Council of Europe comments. The deadline, I recall, was the 15th of – was it March or April? [inaudible]

MARÍA MILAGROS CASTAÑÓN SEOANE: 15th of May, yes.

SUZANNE RADELL: Milagros, pardon. I would like to complete [inaudible].

MARÍA MILAGROS CASTAÑÓN SEOANE: Yes, yes. Please.

SUZANNE RADELL: Thank you. 15th of May, and my comments were submitted on the 19th. Two of those days were a weekend. In the 13 years I have represented the United States in the GAC, I have never been told that I was too late to submit comments.

This is a new development for the GAC, and I think it's a bit regrettable. I would like to put that on the record. I think the GAC needs to be a little more respectful of its members.

And when you only receive two comments in total, it strikes me that it would be a really welcoming thing to do to discuss them. And if you do not accept them as a co-chair, that is your prerogative, but to put them in brackets in the revised version. That is my first opening comment in my name.

I would like to have my comments shared with the community, with the working group, for consideration as a working group. I will not be in a position to endorse these particular terms of reference because my comments have not been shared and not [inaudible].

You asked me to start at the top. I'm more than happy to do that.

MARÍA MILAGROS CASTAÑON SEOANE: Yes. Please do that.

SUZANNE RADELL:

The first comment I made was to recommend that we clarify that the reference to international law, [inaudible] begin with international law. Which international law are you wishing to include in our overview?

Because I am unable to prepare in capital with such a broad heading. I could not consult effectively with the appropriate legal advisors because I couldn't identify which law we would be discussing. So that would be my first point.

Another edit I had proposed was that we make explicit reference to the UN Guiding Principles for Businesses as to how they might

implement or support the overall thrust of the Convention on Human Rights. The obligations in the Convention apply to member states. They do not apply to private entities directly.

And the UN has, of course, very intelligently created a guide for the private sector. That was another proposed edit, that we are mindful of that guide because it seems to have direct application.

I will stop there at the moment. I had a few other edits that would clarify how the GAC would participate in the ICANN Cross-Community Working Group, because we don't yet have GAC positions, so that that would be something that we would need to establish. Obviously, at the outset, we would encourage individual members of the GAC who wish to participate in the Cross-Community Working Group should, of course, do so. But, that until we have consensus GAC positions, they would not be representing the GAC, so it was simply a point of clarification.

I will stop there. Thank you.

MARÍA MILAGROS CASTAÑON SEOANE: I remember your e-mail, and I remember sending back an answer, Suzanne, and reminding you that this is a mandate from the GAC – a mandate that is registered in the Communiqué of Singapore and also in the Communiqué of Los Angeles.

So the GAC had quite a bit of time for debating these two issues, and it was agreed that both international law and human rights be part of

our working group. So I would like anyone else to comment on this, please.

SUZANNE RADELL:

At the moment, I am simply seeking clarification. Yes, that was the reference in both communiqués. I take no issue with that. We understood the communiqué to be sending a signal to the community that we were creating a new working group.

So, since we have moved beyond that, then I would turn over to the co-chairs to please clarify precisely what part of international law you intend to start with. Thank you.

MARÍA MILAGROS CASTAÑÓN SEOANE: I don't think you can choose international law. International law is a body of laws, so you can't start choosing what law applies and what doesn't.

Yes, please?

ORNULF STORM:

Yes, hello. My name is Ornulf Storm from Norway.

I would also like to maybe ask for clarification because I think that's also something that's missed our understanding of this working group. I think our understanding that this was working group for human rights issues. And of course, also international law is very broad, so of course, it must be – if we are going to address

international law in general, that would be very broad, as I think also the US said.

So we would also like some clarification for that, and what are the actual real scope of this working group? Thank you.

NICOLA TRELOAR:

Thank you. Nicola Treloar from New Zealand government.

Unfortunately, I wasn't able to be at the meeting in Singapore, so I'm relying on the transcript as it stands. We would also – I suppose we could open it up to the community to see what part of international law we were expecting to discuss since we are discussing what we want to be in the terms of reference.

When I looked at the terms of reference, I must admit I thought it was human rights law, and perhaps, I think, that would be a good place for us to start. International law is very, very broad, and if we do want to contribute usefully both to this and the Cross-Community Working Group, perhaps starting with human rights law would help us to seek advice from our capitals.

MARÍA MILAGROS CASTAÑÓN SEOANE: The ideas behind mentioning international law that I can share with you are two.

On one hand, in various instances during the debate of the GAC, we have noticed the need for international expertise for assessment on international law, and we don't have that possibility, unless we ask

the Board to ask for a special expertise to pay for international lawyers. I thought that perhaps we could have as GAC a list of international lawyers that we could approach on an independent basis and ask for advice. That's one idea.

The other idea is that in the GAC, we have thought of a few scenarios in which the new gTLDs could represent observations, or we could observe some of the new gTLDs.

I come from a country where, for example, genetic material is very important. I would like the Nagoya convention to be taken into account. That's part of international law.

Perhaps we could make a list of international treaties or international conventions or international principles that could be taken into account. Would that be all right with you?

Yes, Benedicto from Brazil.

BENEDICTO FONSECA:

Thank you, Milagros.

One comment I'd like to make – maybe trying to have some more clarity in this – is that I understand we will participate in this Cross-Community Working Group that will deal with aspects of human rights. Maybe we can have some insights on how other people outside the GAC are looking to this issue and whether there has been some discussion on exactly what would be encompassed by the working

group. Maybe that would help us in having some more clarity on the exact configuration of our discussion.

THOMAS SCHNEIDER:

Hello, everybody.

Just to follow up on where we come from, if you look at the Singapore Communiqué, under the heading 9: International Law, Human Rights and ICANN, it says that the GAC decided to establish a working group on human rights issues and the application of international law as these matters relate to ICANN activities.

So, probably one of the tasks of this working group is to, in the future, identify issues of human rights and international law, as it says here, that relates to ICANN activities. For instance, not all human rights may relate to ICANN activities. For instance, at least in Europe, there's a right to marry, which is part of the European Convention on Human Rights, and that may not be that relevant to ICANN's activities.

The same goes for international law. But I think it's probably premature to discuss or to try and agree now for the draft terms of reference what these matters will be. There may also be new matters that will come up depending on how the situation develops. I think it would make sense to refer to the Singapore decision of the GAC and keep the mandate, as it says, international law and human rights, and then in the work of the working group there can be a list of priority issues, the most relevant issues, that the group would start with.

That would, at least, be my take from the discussions that we had in the GAC and the decision to start this work. We will not deal with everything in the next 12 months anyway, so we will have to prioritize.

So based on the decision, again, to conclude, I would suggest that you follow the decision of Singapore and establish the working group that covers human rights and international law, and then in the course, you can still define what is more or less related or not at all related to ICANN's activities. Thank you very much.

JORGE CANCIO:

Thank you very much. Jorge Cancio with the Swiss government.

I think that in the interest of time, as this session is very short, and we have this extraordinary presence of other community members, it could be good to look to point 11 of the draft terms of reference, which foresees for our first meeting, which is this one I guess, that we exchange views and agree on the scope of the matters that could be analyzed.

So, why don't we just proceed with that, and then we will start to see what is the issues we want to really tackle in this work? Thank you.

MARK CARVELL:

Thanks very much. I very much agree with that sentiment in respect of intention for this session. I think perhaps just to conclude then with regard to the terms of reference and the points that the US have made, perhaps we can review the scope and the title after a year or so.

Let's get into some work, and then, as Thomas Schneider has suggested, we will then be able to determine if this approach is right and the scope is right. Let's perhaps undertake in a year's time to revisit the terms of reference in the light of the work that's been undertaken, the scope of work, the kind of issues that we've sought to address, and the objectives that we are setting out for the work plan as described in terms of reference, whether that needs some tweaking or review. We're kind of breaking into new ground here, so that's my suggestion.

I do note also what the US has said with regard to the guide for the private sector, the UN guide. I think that's a very useful suggestion, to make explicit reference to that, and I'm pretty sure the Cross-Community Working Party has likewise made explicit reference to that. I think we should note that very useful proposal for explicit reference to that.

But let's move on quickly to the substance if you like. But I see US is wanting the floor again. Suzanne, please?

SUZANNE RADELL:

Thank you very much, Mark.

I have a slight tweak on your suggestion and Jorge's suggestion, which is to put the terms of reference to the side then for this meeting. Again, I am not in a position to accept them as they are presented to us today, but I don't think that's a huge obstacle, obviously, to getting together to meet, to compare notes, to exchange views.

I think, as Jorge said, why don't we start this session putting those on the back burner with a commitment to resolving them online? But if the co-chairs can start with a sense of what issues do you believe are appropriate to tackle? What are we intending to look at and why?

Because that will help guide our intersessional work, and I think Norway also concurred with me that it is exceedingly difficult to consult in capital with all of the appropriate legal advisors that we are almost all of us required to consult with if we do not know what it is this working group is actually going to focus on. I heartily endorse that suggestion that we start to get to the nitty-gritty first, put the terms of reference on the back burner with a timeline, and revisit them later. Thank you.

MARK CARVELL:

Thanks very much, US. Yes, New Zealand.

NICOLA TRELOAR:

Yes, thank you. I just wanted to add to the comment with perhaps a place where we can start. I think it would be useful to be aware of the work that's already going on in the Cross-Community Working Group and have a think about where GAC can best contribute to that work.

One of the things, the reason I think human rights is a good start, is that's a place where countries have obligations. It's a place where we're generally agreeing, so perhaps it might also be something to ask the people who are here from the Cross-Community Working Group or

ask in their session. What would be a good place for us to start for them?

MARK CARVELL:

Yes, thank you. It's a very good point, and, of course, we have Niels ten Oever here to assist us with that. Perhaps if the slide set is ready to go, we can ask. Julia is adjusting it at this minute.

But perhaps while the slide set is being checked out, meanwhile, shall we ask Niels to introduce and present the Cross-Community work? And then, as you say, New Zealand, we can get into the kind of interaction in identifying issues. Thank you.

NIELS TEN OEVER:

Thank you very much, Mark, María. I would like to thank the GAC and the GAC Working Group very much for this opportunity for cross-community work, for a convergence on this, and I can say that as a cross-community working party, we're very happy that we have this chance to be able to work together with you, and we're greatly interested to see how we can benefit from these synergies.

First of all, there have been a few mentions of a Cross-Community Working Group. Well, it's a Cross-Community Working Party. So the full name, and I saw that it was not completely like this in the draft terms of reference. It's the Cross-Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights.

I am a member of the NCSG, and I work for an organization called Article 19. Next slide, please.

So the work that we have been building on is not coming out of thin air. I just wanted to give you a bit of background. The discussions on human rights in ICANN have been going on in different constituencies for many years, but things kind of sped up and got more concrete with the publication of the report written by Thomas Schneider and Monika Zalnieriute, which was facilitated by the Council in Europe. It was presented at ICANN 50 in London.

Then there was a subsequent session in ICANN Los Angeles, and there was enough interest there that in Singapore, in ICANN 52, the Cross-Community Working Party got established. After that, we also managed to draft a charter, select terms of reference on which we got consensus, and I'll quickly run you through the main topics of that later. At that session, also Article 19 came up with a report and recommendations.

Now we are at ICANN 53 in Buenos Aires and we can see there is even more interest in human rights. We're definitely seeing an increasing interest in the topic, which we're welcoming very much. One of [inaudible], of course, are the GAC Working Group, the Cross-Community Working Party with its public session and with its working session, but also that we've been invited to present our work at different constituencies, so we're really seeing a fertile climate for cross-community work here.

And we also released a new report on which we worked a lot together in the Cross-Community Working Party. There was not enough time to completely get consensus on it, so it's a draft report that Article 19 then published also to bring a discussion forward. Next slide, please.

Previous slide, please. So why are we doing this? Well, in article four of ICANN's Article Incorporation, ICANN itself says that it needs to act and conform with principles of international law and applicable international conventions and local law. So since ICANN's policies and operations have the potential to impact human rights, we also need to understand how we can address that.

ICANN has (next slide please) an obligation or view to respect human rights, and to do that, we need a proper framework. To do this, we restart from the UN Guiding Principle on Business and Human Rights and the standards that have been developed on this under the UN Global Compact, and there have also been a specific report on the UN Guiding Principles on Business and Human Rights for the ICT sector. So that should give us quite a lot of specific guidance on how this could concretely be implemented.

Just to make sure – and this was something that we needed to raise quite a lot of awareness on – that we're not aiming to expand ICANN's mission, but trying to analyze the impact of ICANN's policies and operations and ensure that they are in line with human rights and not push for, for instance, using the gTLDs for advocacy work. Next slide, please.

So we agreed on a charter. I'll quickly give you the headlines. One thing is raising awareness on this topic, and secondly, mapping the policies, procedures, and operations that could potentially impact human rights so that we know what we could be working on.

Then we also want to provide information, suggestions, and recommendations to the chartering organizations in the ICANN community and propose procedures and mechanisms for a human rights impact assessment of the policies and the work under development, and develop and explore corporate social responsibility guidelines that are in place or that should be created, and produce position papers and statements where appropriate. Next slide, please.

You're very much invited to work with us on this. We have a mailing list that you're very much invited to join. We have a website where all the reports that we've been working for up to now have been published, and as Mark mentioned, we got a public session on Wednesday from 9:30 to 11:00, and an open working session on Wednesday as well from 5:00 to 6:00, where we will be discussing how are we concretely going forward up to Dublin.

That was pretty much the presentation of our work, and if you have any questions, I would be very happy to answer them, but also the other people that are active in the Cross-Community Working Party that are here as well. Thank you very much.

MILAGROS CASTAÑÓN SEOANE: Thank you, Niels, for your presentation. I think it's very interesting and a very good starting point also for us. I will be joining you in the meetings to try to get into the issues.

Is there anyone else who would like to comment on this?

SUZANNE RADELL:

Thank you very much. That was an extremely helpful overview. I really appreciate that. I'm not going to comment on the substance at all because these are clearly early days for you all as they are early days for us. To me, that was the good news, that we are not very much out of sync at all. You're a bit ahead of us, but we aren't that far behind.

Just a concern, however, that regrettably for many of us in the GAC, we cannot join you in your meetings because they are held contemporaneously with GAC meetings. For those of you who may not know the GAC very well, Wednesday is sort of the day we make sausage, and we draft our Communiqué. It's a very intense day, and it's hard for us to leave the room.

Perhaps going forward, we might be able to coordinate with ourselves together and with ICANN meeting staff and perhaps see if we can find a time that permits us to actually meet together or so that we can at least sit in on each other's meetings. Thank you.

DANIEL:

Hello. My name is Daniel. I have a question with regard to something that Niels mentioned in his presentation.

You mentioned that the purpose of, I guess, this group and the Party here is that you would address possible expansions within concepts of human rights that were brought upon because of the workings of ICANN. Can you expand on those? Like, would that be access to Internet or access to a voice on the Internet? Thank you.

MARK CARVELL: Daniel, could you say your affiliation? Who you are working with? Thank you.

DANIEL: I don't work with anyone. I'm a student. I'm here with my mother, but she isn't here. I'm 18.

NIELS TEN OEVER: Let me take those two questions.

First of all, ICANN meeting planning and session planning. I'm already really happy when we get a session on the schedule, but I would be really happy to see how we can improve that planning. Happy to work with you and ICANN staff on that.

To your question, I think we're really closely looking at the things ICANN is already doing and how that impacts freedom of expression or privacy or due diligence and processes, where does it work, that. Because there is quite a lot of interest in this work, and sometimes human rights come a bit as an afterthought, and we've seen that in

some processes this has led to quite a significant slowing down of these processes because things needed to correct it afterwards.

That's also why the business community is interested in having a really clear framework so that we can, before a policy is developed or before an operation is implemented, we can clearly analyze to a framework or to an impact assessment to how this could impact human rights and how that can be brought in line with human rights.

MARK CARVELL:

If I could just add – I think that particular element of impact assessments will be of particular interest to government representatives, how we can help develop those mechanisms. I'm sure that's a very clear, common activity, which we need to exchange views on and help contribute to your work and also inform our work in advising the Board in particular on its commitment and what that means in practice in terms of assessing human rights aspects of ICANN's work.

Are there any other questions or comments on that?

Well, let's open this out to an exchange of views on the kind of issues that the GAC Working Group should take into account in developing its work plan over the coming months for this working group. I would open this out both to the GAC reps and also observers and participants here for views on the specifics, the kind of issues that we should start to prioritize our focus on over the coming months.

We're really looking for contributions and elements that we can discuss within this working group, and then relay to the full-GAC plenary tomorrow on initial work plan elements. That's what I suggested for this next step of the meeting.

Shall I just invite then anybody to start the ball rolling and flag something up and contribute to this pool of ideas as we get going? There is a hand raised over there. Please indicate who you are and so on. Thank you.

ERICK IRIARTE:

Hi. My name is Erick Iriarte. I am working with the ccTLD .pe. A couple of questions and a couple of comments.

The first question is this e-mail list, will it be open to everybody? If I am correct and read the human rights declaration, the access to the information is one of the rights. So will it be open or closed?

The comment is I want to understand especially the United States comments about the international law. Maybe I am confused because this question is in English. I don't understand correctly, but all the things that we are talking, the transition about IANA and other topics, is about how the Internet affects everybody, and how the international law affected in all this process. Sometimes the work could be huge. We need to asking about each protocol and how it would be affected to each topic in our job.

But if you are an advisory committee for these topics, it could be necessary to understand all the international law and how it will be

affected in different topics. Especially when the human rights is in the middle, it's a continuous aspect that the [inaudible], and each [inaudible] and on each discussions about Internet. So maybe I'm asking a clarification through the president of the table to the United States if they can clarify why international law is not a correct words, or maybe they can explain how we can put off the international law from all these Internet topics?

NIELS TEN OEVER:

In the meantime, I'll quickly answer your first question. In the good practice of full transparency, the mailing list is open for everyone, and all archives, from the first e-mail that was sent onwards, is available through the archives.

SUZANNE RADELL:

Co-chairs, would you like me to tackle the answer? I'm going to do my best. Thank you, and thank you for the question.

What I'm trying to get at is that the body of international law is actually quite, quite broad. For example, I'm assuming we are not going to talk about the law of the sea. I'm assuming we are not going to talk about international labor law or perhaps international taxation. So just to give you a sense, it is exceedingly broad as a topic.

Whereas, I think, at least to our minds, there is an understanding of international human rights law. So to us, that seemed like a logical beginning. We're more than happy to step back and watch and see

what other people might want to propose, but we have to start somewhere.

That's the only point I was trying to make, that we need clarity, because the scope of international law, as those two words, the breadth of what is implied is quite, quite broad. Thank you.

MARÍA MILAGROS CASTAÑÓN SEOANE: Suzanne, may I say something, not as Chair, but as a representative of Peru? It seems to me when I hear you and when I read you, that the United States is quite threatened by the idea of talking about international law at the ICANN. I'm happy I'm making you laugh because that way you can give me an answer and tell me. Perhaps you can make an effort and tell me what areas of international law you would be willing to talk about.

Because things are changing. Times are changing. In fact, the process of transfer of the IANA functions are setting a lot of changes that you have to work with. Would you be so kind to tell me what areas of international law, at least, the United States is willing to work with?

SUZANNE RADELL: Thank you so much, Milagros. Can I please confirm for the room, I do apologize. I didn't mean to be flip. But honestly, the statement did make me laugh. Milagros, my apologies.

MARÍA MILAGROS CASTAÑÓN SEOANE: I'm happy. I'm happy to make you laugh.

SUZANNE RADELL:

I don't intend to offend you.

We are not at all threatened by this topic in any way. We are fully prepared to contribute as a GAC member, as we always do on just about every subject. We are more than happy to contribute to a discussion that leads the GAC to some deliverables.

Where we are now at the outset of this process is at a point where we are hoping to get some guidance as to just precisely what our working group is going to start working on. I'm simply asking for guidance as to where you are trying to begin. We are more than happy and can avail ourselves of – personally, I have an enormous array of resources in my capital that I can consult with.

But I need to be given some guidance from the co-chairs as to what it is we are going to be looking at for what purpose. That is all I am asking. There is no fear at all on the part of the United States in engaging in consultations with colleagues on this subject matter. Thank you.

MARÍA MILAGROS CASTAÑÓN SEOANE: Can we agree that the United States and all of the parties involved would be trying to let us know their opinions about what areas of international law should be taken into account?

OLGA CAVALLI: Thank you. Good afternoon, everyone. My name is Olga Cavalli. I'm the GAC representative of Argentina.

In the sake of the time and the precious opportunity that we have to meet in face-to-face here in Buenos Aires, I would suggest that we start working. In my experience of chairing working groups in the GAC and in other SOs and ACs in ICANN, the scope evolves. Maybe we start in one point, and then we change. I'm not sure, Suzanne, if maybe laws related with working is not perhaps related with human rights. That may also have a relationship. Personally, I don't know now. But we may get there in a point.

I would suggest that this is a marvelous room with a lot of people, mostly stakeholder group, so let's use our time. Perhaps if we start working, we know which part of this international law – and I'm not a lawyer, I'm an engineer – that would be interesting that we focus on. That's my proposal.

MARK CARVELL: Thanks very much. We haven't actually got much time left in this session unfortunately, but, Thomas, yes, please?

THOMAS SCHNEIDER: Thank you. Just to try and in the hope that this may simplify this discussion, if you look at the Public Safety Working Group, which is another working group that is about to be created, we haven't particularly clearly defined what public safety, which is a very broad

term as well, is either. They have just used the title of the decision of the Communiqué of Singapore and have created a working group.

There's, in the terms of references, no definition of what public service is, where it starts, and where it ends either. But there are some elements where it says the group will cover these issues, but not limited to. That means they start with some elements, they leave the broad scope of the name public safety, and then they highlight some elements that they agreed that they will start working on.

I think this is a logical, easily comprehensible example, and I would just suggest you to consider actually just doing the same. Thank you.

MARK CARVELL:

Yes, thank you, Thomas. I see New Zealand. Yes, please?

NICOLA TRELOAR:

Yes, thank you. Perhaps I could build on Thomas's suggestion here. Sorry, New Zealand doesn't have an extensive amount of resources at the moment. We're 4.5 million people.

What I might suggest is could we consider starting with human rights and also giving the working group a remit to collate a list or suggest further areas in which we might want to explore back to the GAC so that we can start with a manageable area, get our information from capital, but not cut off other options that may be useful? Thank you.

MARK CARVELL:

Yes, thank you, New Zealand. I think that's very much in line with Argentina's proposal that we allow some flexibility. There may be international law which is not explicitly human rights, but which will be relevant to some of the issues that we're going to consider, so I think that's a point to bear in mind.

But the initial focus – and I think this is a commonality with the Cross-Community Working Party – is to focus on existing laws and guidance which are specific to rights and how we are going to ensure that the mechanisms and processes of ICANN take full account of those, are cognizant of those, and that there are processes put in place to ensure that those provisions of human rights law are fully taken into account. But let's not cut off – as you say, New Zealand – the opportunity to extend the remit a bit wider as issues start to develop within the working group's activities.

Then, as I say, we can commit to review the situation, even the title of the working group, in a year's time in the light of our experience.

I'm really looking for active contributions from members of the Cross-Community Working Party, from fellow GAC colleagues, on the kind of immediate issues. We've got a set of objectives in the terms of reference about developing a position paper and exploring the synergies with the Cross-Community Working Party and looking at the bylaws. There's a very specific element there in our objectives. Human rights impact assessments, I think, is another very concrete thing we should be focusing on.

That's my view in terms of the vision of this working group and how we start to get it going. It's inaugural. It's early days. Let's all help to develop, and then we get the focus right.

Thanks. Milagros, did you want to add to that approach as co-chair?
Thank you.

MARÍA MILAGROS CASTAÑÓN SEOANE: I totally agree with you, Mark. That's the way we are going to start working.

Thank you very much for coming. We have to leave the room now because there's somebody else coming to their meeting in this same room, so thank you very much.

MARK CARVELL: And thank you, Niels, for your contribution. I think that's a signal of the great start for us jointly to work together. Thank you.

[END OF TRANSCRIPTION]