DUBLIN – GAC Sunday Morning Sessions
Sunday, October 18, 2015 – 09:00 to 12:30 IST
ICANN54 | Dublin, Ireland

CHAIR SCHNEIDER: Good morning, everybody. Thank you for coming at this early hour to a Sunday GAC meeting.

UNKNOWN SPEAKER: (Off microphone).

CHAIR SCHNEIDER: Yeah, I'm sorry for that. We'll go together tonight.

Okay. We have agenda item 5 tabled for this 30 minutes, which is the issue of the three-character country codes as top-level domains in future rounds.

Since Karin has been quite familiar with this issue in many areas of ICANN, we are benefiting from having her in our support, and I will give the floor over to her to give you a quick introduction about the issues and what we're supposed to do and discuss.

Thank you. Karin, please go ahead.

KARIN PERSET: Thank you, Chair. Good morning, everyone.

You should have received a preparatory memo on -- for this meeting on the topic of three-character top-level domains. So I'll go through it quickly.

First, I'd just like to emphasize -- next slide, please.

First, I'd just like to emphasize this is a pretty different topic from the two-letter country code issue that has consumed a lot of time. Here we're discussing the top level rather than the second level, and we're discussing future rounds rather than the current round. So future rounds meaning several years out.

And it's also important to know that the current Applicant Guidebook, which regulated the current round, prohibits all country names and country codes at the top level. So this hasn't been an issue in the current round. No one could apply for country codes, country names.

Next slide, please.

So last year the ccNSO and the GNSO created -- formed a working group to look at the possible use of country names and of country codes at the top level in the future rounds. So this working group, which the GAC is -- has -- Olga has been participate being intermittently in the working group, is starting to look at three-character codes, country codes, and it's really at the beginning of the process and it's trying to gather input from

the GAC. So there's no proposal at this stage. It's just -- it has posed seven questions to all the SO/ACs, and at this stage these correspond to rough scenarios. They're not proposals at all.

Next slide, please.

So before -- before diving into the actual questions they propose to the GAC, I thought it might be helpful to give a more specific idea of what it is the questions from the working group are about.

Now, there are two things. The first, there are about -- first of all, the three-character country codes, there are some 300 -- approximately 300 total of those. So that's, for example, for France it would be FRA instead of FR. And in addition, there's some over 17,000 noncountry code combinations of three-character codes. So that's a lot. Including a lot of legacy TLDs, such as .COM, NET, BIZ, et cetera. As well as over 130 new gTLDs, including many brand gTLDs. So these are proven very -- the three-character codes that are not country codes have proven very popular throughout -- you know, since 1984, since the beginning of the -- since the implementation of the domain name system.

So the questions are both for the 300 country codes that the GAC is particularly concerned about, and those 17,000 other combinations of character codes.

And, also, the questions also concern an even greater amount of internationalized domain names codes. So it's a very great number. And it's not limited to country codes.

Now -- So this is -- Next slide, please.

And Julia, could you put the next slide?

So these are the seven questions posed to the GAC. Now, that's digging into the detail, but we can go back to the slide, but I'd like to -- because the questions are a little bit lengthy, I'd like to just give a more precise idea of what it is the questions from the working group are about. Try to explain them a little bit.

Next slide, please.

So as I mentioned, these questions reflect different scenarios for treating three-character codes at the top level in the future. So the question -- If you look at question 1, question 1 is should we reserve all three-character being top-level domains for ccTLDs and not make them eligible for gTLDs? Now, this is what was done for two-character top-level domains where basically the country code operators operate the ccTLDs and the remaining two-character codes are not available for anyone. And the reason they are not available for anyone is in case the ISO standard evolves and, for example, a new country code is

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created or another is merged, et cetera, et cetera, that these codes would be available in those cases.

So as I mentioned, that's the current system that exists for two characters.

Now the question asks should we implement that kind of a system for three-character be codes? And, frankly, the answer is, on the positive side, yes, that would be good because it would enable the ISO list to evolve if needed. On the con side, it's probably too late because so many three-character codes already exist. It's over 150. It's closer to 200 now.

So that question is a little bit, perhaps, unrealistic.

The second question is about allowing three -- the second question is about allowing three-character gTLDs that are not country code. So that's basically the status quo that exists today. In the current version of the Applicant Guidebook, basically anybody can apply for any three-character top-level domain provided that it does not correspond to a country code, an ISO country code.

In the third question, the scenario would be the exact same scenario plus it would give some kind of veto to governments for geographic names. There's no detail in the letter, but what that means, of course, the devil is in the detail, it would require quite

a bit more information to have an informed decision, but I think the overall idea is to avoid a .SPA type situation, and, therefore, provide governments with more say over what names are eligible or not.

Of course the difficulty would be, as I said, determining what are -- what is a country location be, landmark, or geo name. And then another question is, well, why would you limit that to three character?   How is that relevant to three-character top-level domains as opposed to any length of top-level domains?

And next slide, please.

The fourth question suggests the unrestricted use of three-character strings as gTLDs, which would be a departure, of course, from the current status quo, and it would mean -- on the con side it would mean in order to oppose an application for a three-character string as a gTLD, including any country code, governments would have to claim that the TLD conflicts with string similarity rules, those being not so clearly defined.   It would mean -- they would have to claim the string is owe similar that it creates a probability of user confusion with all the experience we've had with that to date.

And then -- and then for questions five and six, those relate to internationalized domain names. They're a little bit confusing in the three-character context. They suggest that three-character

be strings would be reserved as ccTLDs and IDN strings would be reserved as ccTLDs but not eligible as IDN gTLDs.

Now, as -- In reality, there are dozens of both ccTLDs and gTLD IDN strings already in widespread use in the DNS, so the question is a little bit moot. It might be too late.

And in addition -- and additionally, it might not make a lot of sense to distinguish IDN top-level domains by the length because depending on the scripts, the transliteration of a country name or a country code is going to be maybe two characters, three characters, or perhaps many more in some scripts. And I had a look at the transliteration of India, for example, in India's -- and so in five of India's official languages, the transliteration is, indeed, three characters long, but in two other official languages, it's more than three characters long. So does it make sense to bundle these questions together, is a question.

And then question six is similar to the question four that we reviewed previously about it's just -- but for internationalized domain names.

So next slide, please.

So to boil the questions down, I guess it's three main questions. It's questions about the country codes, and then the questions

about the noncountry codes; the whole rest of the pool that are not currently assigned to a country. then and the questions about.

(Audio problem)

Done with the introduction. I hope it was sort of clear. And I'm happy to here -- we're happy to hear views from the room.

CHAIR SCHNEIDER: Thank you, Karin, for this introduction. There's just one element I would like to add that we have been contacted by the secretariat of that Cross-Community Working Group in September and been asked for comments by the deadline of 9 of October. We have informed but with the notion that if we feel that we cannot -- we don't have the time or we cannot make it with a comment by the 9th of October, we should inform them. Which we did. We informed them there's too much work on our plate and it would be difficult, but we also signaled that this will be discussed at this meeting and we will come back to the working group after our discussion that we're having today and possibly a decision or an opinion that the GAC will -- is willing to give back.

We have had one reaction to this on the GAC list from Norway. I guess you have all seen this. I can't remember having seen

another one. Maybe there have been more. But I think we should try and take some time to discuss this here.

So the floor is yours. I see Indonesia and Argentina and Mr. Chen Chung-Shu.

INDONESIA: Thank you. Thank you, Thomas.

First of all, yeah, of course we have standard for two country codes or three country codes. So technically, from a standard point of view, it is not a problem. However, for countries like Indonesia, it has to be other things to be considered. .ID is used by so many people. Civil servant, Indonesian civil servant use the .GO.ID. 4.5 million of them. 4.5 million civil servant are using .GO.ID. Around one million military men are using .MIDDLE.ID, and so on, not mentioning what the private.

We are talking about 240 million people that has to be informed by the ministry that, no, you don't use ID. You have .XXX whatever, .CCC whatever, .IME perhaps from the standard.

Now, it means that the government will need enough time to talk with their 4.5 million civil servant, one million military men and, I don't know, so many academia, private organization, and so on. It will be different if we are using only country code for a

very small number of people. That will be completely different. So it has to be taken into account.

Secondly, I would like to ask a technical point of view. Would it be possible if, technically, from the technical point of view, if we keep some countries with two-letter domain and two-letter characters and add a new additional countries with three characters. It means you have to have some sort of two servers or something like that, keeping two-name characters and other three-name characters. So it can be country with two-name characters .ID. -- Indonesia, for example -- and other countries which have three characters, .CCC, for example. So I just also want to know technically, from the technical point of view.

Thank you.

CHAIR SCHNEIDER: Thank you. Maybe just to get a quick clarification on the technical issue, whether somebody has a -- I don't think that there's a technical problem in the end because, in the end, this is translated into IP addresses, and so on, anyway. But in case somebody would know that there would be a technical difference between a two-character code and the three-character code, please inform us.

Next on the list, I have France.

Okay. The list is Norway, France, Argentina, Mr. Chen Chung-Shu. Iran as well. No?

UNKNOWN SPEAKER: (Off microphone.)

CHAIR SCHNEIDER: Good luck, ICG.

And Thailand. Okay.

So I start with Norway.

NORWAY: Yes, thank you, Chair.

Just to elaborate a little bit on our answers to these questions on the GAC list.

We think the existing protection given to the three-letter country codes in the Applicant Guidebook should stay as they are. We did discuss this in the past, in the first gTLD round. So we think that gives a proper protection of the three-letter code. So we think it's appropriate to stay it that way.

The reason, also we can't see any benefits of opening up the three-letter codes for country codes as ccTLDs either for the

market. So, therefore, we don't think it should be available for ccTLDs either.

So of course, also, as was in the presentation, there could be -- if we still allow a generic three-letter codes for new gTLDs, there will be possibility for them being taken for future assignments, three-letter codes, but that might not be possible to do something with, as you said. So that is, of course, a down side of allowing other three-letter codes. But in the other hand, there exist a lot of three-letter codes already. So I don't think it should be too strict. But anyway, be we should just stick and not spend too much time on discussing the pros and cons on this. We have already a good system of protection in the current guidebook. So we should stick be to that protection. Thank you.

CHAIR SCHNEIDER: Thank you, Norway. It's basically just to continue with the same scheme that we had for the first round.

Thank you.

France.

FRANCE: Thank you, Chair. Merci, Thomas.

We are Sunday morning, but, sorry, I will speak in French.

France speaking. France is willing to support this based on specific rules that are included in the Applicant Guidebook. So we see there is some advantages in opening up the three-character codes. We have seen that there is growth in two characters as TLDs have been decreasing, but I think there should be some mistakes with the three-character TLDs appearing on the root. So I think there might be some mistakes.

ARGENTINA: ...my region, so good day to other mothers in the room; to me and my mother that is in Argentina. It's not the first Sunday of Mother's Day that I spent working in my life. So that's part of being a mother, a modern mother.

Okay. I consulted with our national ccTLD that depends on the presidency of our country. They're more or less in comments with the made by Norway, and so we would stay with the same situation that it's explicit now in the first Applicant Guidebook.

And about opening the space for other three-letter codes, we would really like to stress the fact be of how to implement this veto from governments, because in the first round of new gTLDs, the explicit mention in the Applicant Guidebook that the applicant should consult with the country in the case of any doubt if the TLD was related with some national or community name, that it was related with a country, that didn't happen.

And it came after that with several conflicts and with GAC advice and other things that were difficult to sort out. So -- And it raised a lot of doubts in the process.

So in the case that a veto from governments is implemented, we would like really to see how that will be implemented because what is written in the first Applicant Guidebook, it didn't seem to be legally enforceable for the applicant. So we would like to revise that in the case that the three-letter codes is open to other codes, thank you, other than the country ones.

CHAIR SCHNEIDER: Thank you. Next I have Mr. Chen Chung-Shu.

CHEN CHUNG-SHU: Thank you, Chair. With regard to this issue, my opinion and observation are twofold or have two points. My first point is that at present, there seemed to be no urgent or necessary need for ICANN to explore the possibility to cash in on the ISO three-letter country code as we all are aware that the existing two-letter ccTLD mechanism has around way off for many years. And at this point in time, this mechanism still has much room for new domain registration.

My second point is that the three-letter code country is originally designed for purpose of identifying country or territory in many

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field and has deeper and better visual association between a code and a country name than the two-letter country code.

According to data, the alphabetic country code were first included in ISO list in 1974, long before the coming of the popularity of the Internet domain system. And these country code have been widely used by many international organization to allow facilitation of exchange of goods and information.

As many of our GAC colleague have point out in earlier GAC mailing list, to use three-letter country code as ccTLD would cause confusion or be in conflict with the existing ccTLD practice. Therefore, ICANN should take this issue as seriously as possible, and commercial use or monetizing of the three-letter country code should be less considered or be minimized to the greatest extent possible.

So in brief, whether it's in the current round or in a future round, I think it needs to think twice to use three-letter country code as a ccTLD, let alone gTLD.

Thank you.

CHAIR SCHNEIDER: Thank you very much. Next on the list I have Thailand.

THAILAND: Okay. I will not take much of the time, but I think I full support that we keep the mechanism we already have in Applicant Guidebook for three-character codes as it is and we not allow. But one of the points I would also like to raise is that because the -- the government having ultimate -- having public policies over the ccTLD, and it's a trusted (indiscernible) of the communities to run the country codes.

From what we check, there are some country that have been used two characters in commercial ways, and that's how they want to come up with using three characters for their own use. And I am not touch on that issue now, but I think it's issues that ccTLDs themselves would like to use three characters because two characters is already implemented by the other registrar that having a contract.

So I don't know whether it's stated in the guidebook or anything that can one country have more than one registrar or one ccTLD operate even across the jurisdictions as we all see? That only point I would like to make.

Thank you.

CHAIR SCHNEIDER: Thank you, Wanawit. This is actually an interesting point that you're making. So you say, if I get this right, that there are some

countries that have basically given away, whatever you call it, their two-letter codes to private parties, and they may have an interest to be able to use the three-letter code as their, let's say, public ccTLD right. I think this is something we should consider. That's a point that is new to many, I guess, or that we haven't considered.

Next I have Switzerland, and then China.

SWITZERLAND: Thank you, Chair. Jorge Cancio, Switzerland, for the record.

I just wanted to draw to the attention of this committee and also ask Karin whether there is some sort of precedent on the following issue. There is a list of three-letter codes which is established by the International Air Transport Association, IATA, which is -- from looking at the list, it must be some thousands of three-code letters probably and which have geographic connotation because they identify the location of the airports.

There are also IATA codes which identify geographic regions. So my question would be has this been considered before? From a cursory overview of the new Applicant Guidebook of 2012, I haven't found any reference to this, but I don't know if it's hidden somewhere. And from -- on the other hand, I would also like to ask if this has been considered by the working group

which is asking the questions to the GAC, amongst other SOs and ACs.

Thank you.

CHAIR SCHNEIDER: Thank you for another very good question.

I don't know, Karin, do you have any immediate answer to this question about the airport codes?

KARIN PERSET: Yes, those have not been considered. None of the other lists have been considered. There are several, including IATA, and they have not been considered at all in the ICANN context, DNS context.

CHAIR SCHNEIDER: Thank you.

Next I have China.

CHINA: Thank you, Chair. Just a quick point. On this issue, although I would also -- I would consult this issue with our national NIC, which is CNNIC, our current thought is we would like to treat the country code of our country, the three-letter code, as the ccTLD.

So, currently, I would -- I call the viewpoint made by the previous speakers.

Thank you.

CHAIR SCHNEIDER: Thank you.

Germany.

GERMANY: Yes, thank you. I think the way it was described by Norway is a quite solid way which we could support. Nevertheless, I just want to come back also to the question of Argentina, which was whether it is clear which government is addressed in -- with the name and related to a country code.

My question would be have there been problems in this respect in the first round? Because I know there were some application, at least one I know for sure but probably there were more than one, for country codes, and how this works in relation -- worked in past in relation with the government. Could that be solved or was there some contention sets or whatever that were necessary for this?

Thank you.

CHAIR SCHNEIDER: Thank you.

Is there a quick answer to this question from you, Karin? Do you know? Have there been issues with three-letter country codes, I think was the question.

You don't know.

Okay. Next I have --

KARIN PERSET: Sorry, just to confirm. No, to my knowledge, there have not been because they were made eligible, non-eligible for an application in the first round.

CHAIR SCHNEIDER: Your question is related to country codes and not cities like Spa, and so on.

GERMANY: My question is related to country codes and perhaps I will give this example. There was with an application for IDN, and that's a country code for Indonesia. And I wonder how this was solved.

KARIN PERSET: I believe -- I would need to double-check, but my understanding is that the application for IDN was rejected because the country names were not -- were not eligible in this round.

CHAIR SCHNEIDER: Okay. I have the Netherlands, Argentina, Italy, and the U.K.

Netherlands.

NETHERLANDS: Yes, thank you, Chair.

I've only two remarks. I concur with, let's say, some general concerns expressed, but these are I think only general concerns. And I think the work of the working group or the ones who are working with this would benefit if there were, for example, three or four scenarios or proposals, because then we can really act on this.

Now, there are many questions, many different, already, let's say, things in place. I think it's better for us to react on the basis of proposals or three or four scenarios and then we can really target them with our opinion.

A second point is more a general point, I think. Although many countries expressed concern, I think still we have to face that not as a gTLD but as a ccTLD, the use of maybe three-letter codes is

something which is, I would say, is not up to the GAC to impose in a way because these are sovereign things. I think whatever we decide in ICANN, if there is a possibility or a need to use three-letter codes for -- as an extra or a competing or a different national code, it's something which I would be very disturbed if the GAC as a whole would decide for my country what I should not or should do.

So there should be a kind of freedom and also respect for sovereignty in these issues.

Thank you very much.

CHAIR SCHNEIDER: Thank you, Netherlands. Actually, I looked at the watch and we're already ten minutes over, so I urge you to be really brief. And then we need to decide what to do with this.

Okay. I have Italy and U.K.

Thank you.

ITALY: Thank you, Chair. Just be very brief.

Italy fully concurs with the positions by our colleagues from France and Norway, but the reason we don't support the release

of three-character code at the generic top-level domain. Only this.

Thank you.

CHAIR SCHNEIDER: Thank you. That was short.

U.K., can you be as short as Italy?

U.K.:   Yeah, just to really update on this issue. As Germany mentioned, we're one of the countries who have several three-letter codes from our dependent territories. We're currently in the process of consulting them on this issue, but we haven't had responses yet to be able to sort of come here and give a formal opinion.

But that said, we're also kind of mindful of the fact that there are lots of sort of large businesses that are in a sort of -- their trademark is a three-character, and they may have an interest. So we're sort of on the fence at the moment until we get some more information.

Thank you.

CHAIR SCHNEIDER: Thank you. Actually, one element that was also part of the exchange between the working group is the fact that it is felt by the chairs of the working group that it would be helpful for that group if the GAC would participate more actively than it has been doing so so far in that working group to allow for such an exchange also directly with the working group. I know that Olga has participated to some extent in that working group, so I give her the floor, very briefly.

OLGA CAVALLI: Thank you, Chair. Just to remind that the GAC is part of that -- it's a Cross-Community Working Group, and the GAC is a chartering organization of that working group. There is always a desire of engagement with that working group every time that this issue shows up in our meetings, but I am the only one that shows up in the calls which are biweekly.

So I encourage those colleagues which are interested in the work of this working group to join me, or maybe we can alternate, so we have diverse opinions in the working group and we can update the positions from the GAC in that working group.

Thank you.

CHAIR SCHNEIDER: Thank you.

So that would be a proposal that we should try and find more people that are able to spend a little bit of time in communicating and participating within this working group.

France, you ask for a few seconds of the floor. Thank you.

FRANCE: Thank you, Chair. I will be brief.

I will just add thanks Karin for this work because it's a very complex issue, and I think that this presentation are helping us.

Thanks.

CHAIR SCHNEIDER: Okay. Thank you.

So now we should -- Since we signaled to the working group that we'll come back to them, when and how will we be able to come back to them? Do you think that we can try and work on answers to the seven questions electronically based on a proposal that would be prepared by the secretariat and by ICANN staff based on this discussion and then we see? Or do you think that this is not feasible and we somehow need to tell them that we will need longer time?

I see some people nodding. I think we should try and see whether we get to, in the following weeks -- not months but

weeks -- to first, at least preliminary, we can also say that we are looking into some of the question. We don't have to answer all the seven in the same way, but maybe some of them are rather easy for us to answer.

So I take it as agreed that we will try and reach out to you electronically.

UNKNOWN SPEAKER: (Off microphone).

CHAIR SCHNEIDER: Yeah, we already signaled that we need more time. But I think we should try and do this in the following two, three, something like that, weeks.

And we can also use, in addition, our exchange with the ccNSO to maybe raise this issue and orally convey to them that we have started to discuss this and we'll come back with some first answers on the questions rather soon.

Okay. Thank you very much. With this, I think we can go to the next agenda item, which is the review of GAC advice effectiveness. It's agenda item number 6.

Before I give the floor to the secretariat, who has been working on this, just a brief introduction from my side.

This is not a new issue; that there's a recurring wish to have more thorough assessment of what advices have we given, what has happened to the advices in terms of what have been the Board's reaction, how have they been implemented, are we satisfied with the way the GAC advice has been implemented or not, and so on and so forth. So there have been some discussions in the BGRI at an earlier stage already, and also some board members have signaled that, at earlier stages, that this is something that may be improved. It's not only about GAC advice, from their point of view, but also about advice and traceability of advice and its implementation in general.

So at a previous meeting, we have tasked -- the GAC has tasked ACIG to look into this and go and see what can be found about -- on ICANN's Web site and the GAC's Web site, and so on and so forth about the advice and what happened to it. And this paper you have in front of us is basically a sharing of experience of what they experienced when trying to look for the pieces of advice and try to track what actually happened to this.

So with this, I would like to give the floor to Tracey to present this experience to us.

Thank you.

TRACEY HIND: Thank you, Thomas. And good morning, everybody.

This report is exactly as Thomas indicated. I'd like to take five minutes just to share with you the approach that I took and the process that I went through to come up with the document that you've read.

What I did was I -- The task was to take an objective, independent look at the GAC advice from Beijing onwards and to have a look at how effective that was in affecting Board decisions about how they implemented certain things or went about certain things.

So my process was I printed out all the communiques from Beijing onwards, and I also then went back through all of the correspondence between the GAC and the ICANN Board between the Beijing dates and today, and I printed all of that out, too. If you're an environmentalist, you should probably close your ears now because it stacked up about this high.

It took me several weeks with, and what I did was I went through a one-by-one matching process. So I pulled out all of the pieces of GAC advice in the communique, and then I looked at all the responses from the Board and matched them back one by one. It was tedious and it took a fair amount of time, but I wanted to see what an objective outsider, so somebody who does not work for ICANN and isn't in the know of what's going on, could

actually find in terms of how all of this effort and discussion and dialogue that you, as governments, put the effort into contributing actually translates into in terms of impact on ICANN policy and implementation. That was the purpose.

The appendix to the document, which is the landscape table, is the matrix of what I could find when I pulled those communiques and those pieces of correspondence together. You'll see that there's a lot of gaps. There's a lot of empty spaces where I couldn't actually find something that was a direct translation. And I left those spaces, those empty spaces, in there in the report to show you that that's what I would find.

Now, the ICANN -- The GAC ICANN staff, and rightfully so, after reading the report said, "But Tracey, there is actually answers to a lot of that stuff. We know a lot of that stuff. Or if we don't know ourselves, we know somebody who does know," and there's no doubt that that's true, that there is actually information that could fill out those blanks.

But the point of the exercise was to have a look at what somebody outside the ICANN tent, somebody who -- I'm a former senior civil servant or public servant myself. A little like you guys are saying you're public servant, somebody like us could actually find without having to be inside and ask those in the know.

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Also to see what a researcher in public policy at a university or similar might find if they were to look at what the impact of GAC discussions and activity has been on outcomes of ICANN policy.

So this report describes what I found. There's a number of -- number of findings. They relate to record keeping, lack of clarity in some aspects about the advice itself and the way advice is bundled, and perhaps sometimes interact; public policy, making it really clear where advice leads to public policy.

Now, there are six? Yes. There are six recommendations in the report. I'm not going to speak any longer than this. I'm not going to go through in any detail what I found or what the recommendations are because I'm going to assume you've already read those. There are six recommendations in the report, and I guess the purpose of this session today is to present the information to you and to invite you to take the floor, give us feedback, and tell us whether or not you would like anything to happen as a result of this information; whether or not you support any of the recommendations, and let us know what the next steps are from you as the GAC, what they are or they may be nothing. You may be happy to-of-just to read the report and say okay.

So with that, I'm going to hand over to the floor.

CHAIR SCHNEIDER:	Thank you for sharing this with us.

Something that may be is interesting for you to know, that currently ICANN staff is working on a software system that would allow to actually track, in particular, things like advice for ICANN staff to use but also for people like us to use. So this issue is on the agenda also of the Board that has been receiving a presentation on this. And I had a discussion with the chairman of the Board this morning, even earlier than we started this meeting, but that's not really relevant for you, of course and he also signaled that this is something that he feels strongly about and is a high priority for him to provide for this better information, and also as an element of accountability and traceability.

I just wanted to flag this to you. So basically, there's a lot of traction behind the idea to improve this.

And with this, I want to give you the floor to make comments on the issue and what the GAC could possibly communicate to the Board or to whoever about this.

Thank you.

So your views, please.

I see Denmark and the United States.

DENMARK: Thank you very much, Mr. Chair, and thank you very much to the secretariat for making this report. I think it's very important that we shed light on this issue, and it's -- shed light on a feeling, I guess, that many of us have had that it's not really that easy to find out or to see what's going on with the GAC advice, and I guess the new gTLD process and all the advice we've been providing there. I mean, we're still working on it, and it's difficult to see.

And first of all, I think it's really, really important that the -- to keep in mind that the Board -- I mean, most GAC advice (indiscernible) into account both adoption and making of the policy. I mean, this is the main responsibility towards us. It's a transparency issue, and it's an accountability issue. And this means that it has to be crystal clear what the Board has done or intends to do with our advice.

And the situation is, of course, not, I mean, satisfactory. So I definitely think we should go further in this and make it better.

And I think that the recommendation in the report -- I mean, they are quite useful, I guess, as a starting point. And, I mean, I could point out two that just it could also be for the GAC to take upon itself to -- in order to minimize the possibilities for these confusions, that we make a clear rationale and maybe also the

suggestion that what the goal of the public-policy advice is in that sense.

And I also think it's useful with the suggestion that we, the GAC, could help the Board on the implementation as well.

And there may be other really good recommendations there. So I think we should start from there.

Thank you very much.

CHAIR SCHNEIDER: Thank you, Denmark.

United States.

UNITED STATES: Thank you, Chair. And thank you, Tracey, for walking us through the document. Frankly, for preparing the document. It's extremely helpful. So I concur completely with what Denmark has already noted.

You have given us quite a few good recommendations to consider, and I think it's worth us tackling this as we go along.

My question would be, I guess, how do we best go about this?

So I've seen reference to the BGRI, the Board/GAC Recommendation Implementation Working Group, and I don't

want to put my colleague from Egypt, Manal, on the spot but she has been our capable co-chair on this for quite some time so I would defer to her thoughts as to how we might resuscitate that working group or revive that so that we can actually jointly look into these recommendations and figure out what is the best way forward to ensure that the register of GAC advice is actually a proper register that you can track more easily. We would not be the only people in the ICANN community who would like to see an improved register, I'm sure.

So I do endorse that, and you have given us a lot of food for thought, and I do think we need to take this into consideration.

I would express just a small hesitation, however, about one of your recommendations as to providing guidance on implementation. So, Julia, please don't take this as a disagreement between us. I just think we need to think that through a lot more carefully, because, again, that sort of -- while it could be helpful in terms of clarifying our objectives, I think if we take that too far, we're talking about becoming operational. So I just wanted to just express a small note of hesitation. But I did want to take the opportunity to thank you again for this work product. Appreciate it.

CHAIR SCHNEIDER: Thank you, United States.

I have U.K. and The Netherlands on my list.

UNITED KINGDOM: Thank you, Chair. Good morning, everybody, and thank you, Tracey, for this report and your presentation this morning. It's extremely helpful, and we, too, acknowledge the amount of work you've put into this and the value of the output. And we've had a first look at the recommendations, and pretty much I endorse the comments that have been made by Denmark and the U.S. prior to me.

I particularly honed in on recommendation 2 with regard to conveying the public interest rationale for advice. I've said this at previous meetings and banged on about it. That's important, not only with regard to the Board but also the community that we communicate the rationale for our advice more effectively than we have previously, and not to leave people guessing or potentially misinterpreting our intentions and how we've arrived at the piece of advice.

So recommendation 2, as Denmark already pointed out, with regard to the intended public-policy outcomes being made clear, is certainly one I would support. And also with regard to the register. As the U.S. has also indicated, this is very important and your review of the mechanics of that and the value of the register in being able to track easily the progress with advice,

how it's been responded to, the ability to identify gaps, and so on, is also critically important.

So that's very valuable, what you've set out in recommendation 4 with regard to that.

So those are my comments on this extremely valuable work. We need to cross-refer some of the action to the operating principles and also with regard to implementation of our commitments following the ATRT2 review.

So this is very timely, very important, and we should move forward to implementation as soon as possible.

Many thanks.

CHAIR SCHNEIDER: Thank you, U.K.

I have so far three more speakers on the list. Looking at the time, I think I would like to ask those who also support taking this on and doing something with it, that we don't give you the time to express this. I would rather ask is anybody in fundamental disagreement with the direction of the proposals and the views that has been given so far by Tracey but also by the GAC members that already spoke?

Because if that is not the case, I would like to actually ask you the question that has already been raised, how to go about this in the future.

One element, of course, may be -- would make sense because it's an existing structure that has been slightly less used because of other current pressuring issues, but it's still there, which is the BGRI, which, with Manal as a very able and diligent person leading the GAC side of this.

Also, Steve has referred to this and they have actually discussed some time ago several elements of a process starting from -- with making sure that when the GAC issues an advice, the Board's understanding is the same as the GAC's understanding when sending it. Then the next step would be for the Board to basically do a feasibility study whether this is feasible legally, resource-wise, so on and so forth, and at some point the Board would need to take a decision to follow the advice, to share the way it's intending to implement it.

And then the last element would be once the Board thinks that ICANN has implemented it, that it would come back to the GAC and ask us whether we agree that we also think that the advice has been implemented.

So these are just, quickly, the elements that Steve has communicated to me. So I think there is some work that we can

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build on that is coming from the BGRI. I don't know who exactly in addition to Manal is or has been a member to that structure. I see Suzanne, the U.S., is -- so we may also expand or say renew, review the composition, but I think it may -- unless you have a better idea, then please come up with. But I think it may make sense to use the BGRI and build on the existing work, but with a clear signal that this is very important. It seems to be important for the Board. It's also important for us, that that will support the BGRI and put this on a high priority on our agenda.

And if that will be a way forward, or the other way around, please take the floor to say if you think that is not a good way forward or you have a better idea.

Spain.

SPAIN: It seems a good way forward. We have to work out the details.

As regards that proposal by the chairman of the Board, be I going to stress the need that this exercise goes also backwards. It's not only for the few but includes a review of GAC advice in the past and how it has been implemented.

We appreciate that ICANN has given input into this issue, is willing to assign resources to it, but I think that at each part of

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that, record or registry has to be made by the GAC, which is the assessment of the consistency of the implementation of GAC advice with our intended public outcomes. This is something only the GAC can do.

So thank you.

CHAIR SCHNEIDER: Thank you. I think that's part of the idea with that has already been discussed; that the GAC in the end would say whether or not it's satisfied with the implementation and the outcome. So I think that point is well taken.

I have the Netherlands.

NETHERLANDS: Yes, thank you, Chair. And thank you also, Tracey, for the report.

I won't repeat because I concur mainly with previous speakers. There are just two points which I think is, from our side, important. First of all, I think I reiterate what U.S. said. I think we should not go into the implementation as an advice. Implementation is something for the ICANN Board, and it's -- I think in recommendation, it's good to separate, let's say, the principle advice, what is our public-policy intention, what are

the interests at stake, and then possibly give implementation variants or as a guideline.

But, secondly, I think more importantly is that this will also affect our -- how we conduct our business, because if we -- I think we should change our, let's say, planning or how we conduct business, because if we have an advice made up sometimes Wednesday at 2:00 -- well, sometimes, but not always -- we lack the possibility to give a good rationale.

So we should really look at how we have time, ample time to beef up or let's say give at least a good explanation of what we have put down in the advice.

Thank you.

CHAIR SCHNEIDER: Thank you. We have to end discussion soon.

One minute for -- I don't know, Sweden, if you also seem to insist so I give you the same right. We have Sweden, Switzerland, France, and Argentina.

Okay. One minute each. Thank you very much.

SWEDEN: Thank you, Chair. Good morning, colleagues.

I don't insist. I just wanted to make a point that this also speaks to stress test 18 where there are some concerns expressed about advice being actionable or not. And as Thomas said for The Netherlands, we don't always have the time to think of how we design you the advice that we write when we're hungry and we're tired and it's late at night. But having the advice being actionable seems reasonable if we want the Board to be able to act upon them.

Just that comment.

Thank you.

CHAIR SCHNEIDER: Thank you.

France.

FRANCE: France speaking. Thank you very much.

The result is really very (indiscernible). It's been a very good result, but it's disappointing because it shows the response of the general Board is slower in existence, sometime, even partial. So I think the government should not apologize for asking for procedures to check some of the safeguards or whatever because they are working on behalf of people that are not able

to attend here but will be impacted by decisions made by ICANN.

I know that ICANN is not the legal advisor to the Board, but no government should be subject to California laws.

So we should take into account that the Board should take be GAC advice as best as possible. And the Board should -- when there's no answer by the Board or there's an indirect answer by the Board.

CHAIR SCHNEIDER: I think that the Board is willing to improve the situation, and they are aware that something should be clarified even better. So I think that both parties have a good will and will improve it in the future. But we should also include a better work based on what has been done in the past.

Thank you very much.

Switzerland.

SWITZERLAND: Three short points. First is to caution ourselves not to re-open issues, like what is GAC advice and general things like that. Because in the report, which is excellent and I really appreciate

it, but some of the recommendations could be red a as re-opening some sensitive issues, and I would caution against that.

Second, I think the role of the Board and of the staff in track being GAC advice is really key. They have to help us in this. The information system, be it wouldn't make sense that we establish our information system by ourselves. It must be interoperable. And the same that one the Board has. And this leads me to the rationale of the Board resolutions. The -- many times, quote, the "different elements" of community input they have considered when they reach to the resolution. I don't know if this has been analyzed by this report. In any case, it should be part of this tracking exercise. And it would help that apart from metadata and sources like that, we would establish a kind of identification and numbering system of our advice that could help us to track it in the Board resolutions.

Thank you.

CHAIR SCHNEIDER: Thank you.

My final question to you is do you agree that we ask our secretariat to come up with a short text for the communique that we have been looking at the effectiveness and that we will engage with the Board through the BGRI? Which is, by the way,

just to make it clear, open to any interested GAC members to join. That will engage and try to improve this; that this is a high priority, and that also in terms of timeline, that we shouldn't wait forever on this. That we make sure that this is an urgent and priority issue.

Is that okay for everybody?

I see no objection, so then I think we can move to the next agenda item, which is number 7, WHOIS and the NGRDS.

I won't spell it out. We all know what it means but we're not all able to spell it out, so....

I have two co-leads, African Union Commission, Alice, and Wanawit from Thailand. The floor is yours.

AFRICAN UNION COMMISSION: Thank you, chair, the Public Safety Working Group has been tracking this issue, and Thailand, Pitinan, is going to be making a presentation on our behalf. And then we'll hand over back to you, Chair.

Thank you.

THAILAND: Hi, good morning, everyone. It's nice to be here.

Okay. For the -- yeah, the first slide is WHOIS and NGRDS. Our working group actually have other aspect more than the WHOIS as well. Just to remind that we will have our internal meeting Monday, and we come back to you on Tuesday for the other aspect from the working group.

So this one is only for the WHOIS. The objective is to consider how GAC will be interact or engage with the issues relating to WHOIS and NGRDS. To be honest, I still have to reconcile is it the new generation or next generations. So it is the Next Generation Registration Data Service.

The aspect that the GAC probably have to looking at is the public safety, the consumer protection, law enforcement, and also the data protections.

Maybe it's also worth emphasize that the current WHOIS, there are also a lot of work of trying to improve the existing one, but a lot of energies moving to how to do the new system to replace the WHOIS, which is the next generation. So we may as well have to take a look onto that.

For example, like before we have -- in the WHOIS, we have three contact informations. We have the registrant, the technical contact, admin contact. The next generation would probably have more, like seven. The additional will be legal contact,

which only the legal person can access to this kind of information.

So the next slide, please.

So this is just to summarize. There are actually more than this shown, and this is from the summary paper from the ACIG. This is only the first work that has been done. So the two -- two sets, the ongoing to make the existing WHOIS better, and the next one.

So the existing, they have the RAA WHOIS accuracy spec review, which one important thing is it will now enforce the registrar to verify the information of the registrant. And also the privacy/proxy service. Also in the additional from the paper that you already have, there are some work happening in parallel regarding to the non-Romanized characters. So it's the translation and transliteration, and also the internationalized registration data.

So for this one, the last one is based on the -- it's from the IDN working group. So they are aiming for the Internet for everyone. So everyone should be able to input the information if their own language. However, when the final from the translation and transliteration says it's not mandatory to translate that original language into the English or what language. So all this is

happen in different scope and different time. So sometimes it's kind of conflict or is not getting along.

Also, for the next generations, now we have the GNSO, they just issued a preliminary report, end of the public comment by the end of September, and right now is considering to move into the PDP process. So the PDP will be, they set up the set of questions, then set up the working group trying to answer those questions.

So for the first thing is the working group, PSWG want to -- want to suggest that to carry on what the GAC has already advised, the standing advice from the existing WHOIS to carry to the next version of the WHOIS, then we might have to list that and mapping to the question that arise from the next generations.

So the next slide, please.

Sorry. The previous one.

So this one is to make it a quick image of other policies is coming on the different scope and the different time. So it's funny, sometimes the IDN is connect to go the gTLD and the new gTLD, and also even the changes will affect across every domain names, but the ccTLD is not really in the enforce scope. And some of the countries, they have the contract with the

government and some they don't really. They just granted from ICANN.

Okay. And so this part, that's why we think that the public policy is needed from the GAC, so it can be implement across every -- every constituency.

Okay. For our next slide, please.

All right. And this is the detail of the questions for the next generation RDS. So I just go through quickly. It's the same as the briefing CAIP paper from the ACIG.

The question, 11 questions. The users' purpose, who can access to the gTLD registration data and why, and the gated access. This one probably related a lot to the GAC. From the perspective of the country, we also have to protect the data of the registrant in our country. For example, if there's people in Thailand owning a domain name and INTERPOL from the simplicity in Sweden want to access to the legal part of that new contact, how can we know that this is the eligible one to access?

And then the next, data accuracy. This will also link to the other works related to the non-Romanized script because it would be very hard for Thai registrar to understand address in Japan, for example. So this one have to be taken to (indiscernible).

Data element. The structure of data, maybe be -- this someone probably too technical for the GAC.

Privacy also is one of the things that we have to consider.

Coexistence with the WHOIS legacy system. I think this is what we have to carry our standing advice before, and also with the safeguard for all the category A, the .PHARMACY, dot something, that we probably need to verify more than the contact address.

Also compliance, system model, and the cost. The cost, actually it could be more than the money itself. For some of the working group, the cost mean the burdens or is also linked to the liabilities. If the contact is not correct, who is liable for it and how?

And also benefit and the risk of the next generation RDS.

So this is the detail of the that is likely to coming up soon.

So next slide, please.

Julia? Okay.

So I think there's three points for this morning. One is how to carry the existing GAC advice to the next generation. So probably we will summarize what we already issues and mapping to those 11 questions.

And then the second, this is just open to the exchange, what are the public policy needed in our view that need the GAC advice. And the third one is how to coordinate back to GNSO.

I think we do have the quick-look mechanism with Suzanne and Manal is the liaison for GNSO. So we're probably not very familiar with how that works, so we need input for that as well.

So that's the brief about WHOIS from our working group.

And I give the floor to questions or comments.

Thank you.

CHAIR SCHNEIDER: Thank you very much for this presentation. The floor is yours for questions and comments.

Indonesia.

INDONESIA: Just want to ask of our colleagues from Thailand. First of all, I appreciate the -- so many works that (indiscernible) has done for the WHOIS activities, and so on.

I just want to know when the study was carried out, are you doing some sort of like checking the regulation in each country? Because each country have some sort of -- what you call it?

Private -- private data safety system or something like that. In some countries, some prefer that it is open. In some countries, it is closed. And from country to country, I believe it is also different.

Now, do you make some sort of studies as what is this tendered data in many countries which are open and which are closed, something like that?

And which are -- Because normally some countries will make as private, closed data because it is for personal safety and for country safety and so on.

Thank you.

CHAIR SCHNEIDER: Thank you.

I think you may respond, if you wish, to that question.

THAILAND: Yes. Data privacy, data is something we will taking a look. We are not anywhere close to any summarized yet, but we do bear in mind that there is a sensitive issue and this varies from countries to countries.

Like, for example, some of the countries, this for the benefit of the consumer should be open as much as possible; right? But

some of the countries, if you are open that you own the activist for the -- some -- every other activist and you're running a Web site, maybe that can cause you a lot of trouble. And I think that's a thing that we have to take a look.

CHAIR SCHNEIDER: Thank you.

Further questions or comments?

Yes.

UNKNOWN SPEAKER: May I add a little bit? During the development work, there is some discussion. I think Tom is also addressing the issues about the frameworks of privacy, data privacies, and that also relate to accountability. And I have been proposed that it might be worth looking at, because there are no -- be no international kind of issues. And I propose that APAC may be one of the largest groups they're dealing with and they have the framework that relates to OECDs and the European. And from the working group I propose that we may look into the APAC's privacy frameworks, that most of the country across the continent, I think we do see that we might you be using that APAC framework in working to start with. Because this -- this year they also put you in the cross-border privacy rules and the safe harbor context in the

APAC flow. So instead of reinvent the wheel, we just try to work around existing frameworks that among government have been agreed. So that is the update that I could make.

Thank you.

CHAIR SCHNEIDER: Thank you.

Further questions or comments?

If this is not the case, then....

TOM DALE: Thank you, Thomas. Just in terms of the continuing process, can I clarify with the -- with the Public Safety Working Group, do you -- do you believe that you have a sufficient number of interested and motivated members with some connection to the GAC, if I can put it that way, to participate in the policy development process when it starts in full on the next generation services? Or do you -- or are you looking for more volunteers across the GAC as well? And does that require some more information about what might be involved in participating in a policy development process like the next generation services, which could go on for some time, of course. But you do -- The working group, as I understand it, has quite a range of

experts in a number of these areas already, so I'm just wondering if you have sufficient -- if you feel you have sufficient resources or is there something else that might be done across the GAC?

Thank you.

CHAIR SCHNEIDER: Thank you.

This is a good question, and if we don't have an answer to this now, we will have the exchange with the GNSO coming up later where I guess, among other elements, PDPs will be on the agenda and how to cooperate with the early engagement discussion, and so on. So we'll have another chance to discuss and think about this. But I think it's worth investing some resources, like in many other places, but also on this issue because it's an important issue to many -- to many governments, but also to our citizens and law enforcement agencies, so on and so forth.

Yes, Indonesia.

INDONESIA: Can I just -- Tom, regarding to Tom's offer for all -- of some GAC members to involve in the PDP process, that is policy

development process you just mentioned over the future services, that includes also the services under the new organizations of ICANN leader. Do you also mean that or....

TOM DALE: Thank you, yes. I was really just working to the working group, the Public Safety Working Group, which has a lot of new members, not all of whom are GAC members but have a lot of experts in law enforcement and consumer protection. But also the GAC as well, because of course the GAC -- GAC members are always very welcome and, indeed, encouraged to participate in this policy development work as well. It's just that in the case of the Public Safety Working Group, which is co-chaired by Thailand and the African Union Commission, there are a significant number of new experts potentially involved. And as the presentation here has said, that they have already done a great deal of work, and I was just trying to clarify that they are a resource for the GAC as well.

So that was all. It's essentially GAC members and specialist advisors to GAC members who are all involved in the group and who have done a lot of work be so far. It's a process thing rather than a substance thing.

INDONESIA: Can I just respond about this, Tom?

CHAIR SCHNEIDER: Of course.

INDONESIA: Because next month we will have IGF in Pessoa Joao, whatever, so difficult.

CHAIR SCHNEIDER: In Brazil.

INDONESIA: In Brazil. Okay. In Pessoa something. And we will have the high-level leaders meeting. And if you look at the IGF program and the groups, working groups, basically from my point of view, you have two points. One is the openness of Internet, one is the safety of the Internet, which is always fighting each other, you know, how to find a good integration of those two.

Perhaps the high-level leaders meeting can be a good -- I don't know what to call it. A good place for all those leaders to discuss about Tom's policy development process in the future, and hope they can -- Because all of us will be represented there by our minister, hopefully, in Brazil, and hope all those minister can say

something about this policy development process, especially in the -- after -- beyond ICANN.

CHAIR SCHNEIDER: Thank you, Indonesia.

African Union Commission, and Thailand as well.

AFRICAN UNION COMMISSION: Okay. Thank you very much, Chair. I just wanted to note -- agree with what the Chair has said that we actually don't have an answer to the question regarding additional resources yet. And what is going to be very helpful is our meeting with the GNSO to just find out to what extent we will need to get involved, and it's obviously very important for that. But also to mention that the Public Safety Working Group is going to be having a meeting to actually discuss and finalize on its work plan. And we've actually done quite a lot of work in several other areas, and this is one of them, and we're going to be presenting that on Tuesday.

And regarding the resources that will require will be discussed at the Public Safety Working Group private meeting that's going to take place on Monday evening and then they will come back to the GAC with requests or proposals.

But, yes, we do accept and probably really want to make out the request that it will be quite important to have any GAC members who have expertise in some of these areas to join the Public Safety Working Group and contribute.

Thank you.

CHAIR SCHNEIDER: Thank you. And I would like to end with Thailand, of course.

THAILAND: Very, very short one, but I think as Tom has mentioned, I think I also would like to share with the GAC that we heartily need the teams to participate. And if you look at the experience we have in the PDP process in translation, transliteration, through the GAC you might need to work on the consensus base. But the PDP is the place that country can give the opinion, and your point will be note officially in the PDP document, which is very important.

Sometime the recommendation coming out may not in favor what we like to have, but our point be note that most important thing we reserve the issues that we do see. It's important for our communities. And that's the place that your contribution and works would keep the benefit to your communities. And that, I like to stress the important of participating in PDP process

together, and that will help your communities on the issue related to the WHOIS.

Thank you.

CHAIR SCHNEIDER: Thank you very much.

Yes, United States.

UNITED STATES: Thank you, Chair.

I just wanted to chime in to support what Wanawit has just stressed and to reflect back. I think we'll have a better sense once we conduct our meeting with the GNSO. But just a gent tell reminder that the GAC-GNSO consultation working group has been working for quite some time. I'm looking at Olga. She's shaking her head yes. Manal, Olga, Mark Carvell, several of us have been engaged with the GNSO to try to figure out how to coordinate GAC input from the outset of a policy development process.

So I did want to underscore what Alice and the AUC and Pitinan have already said. This is probably going to require a significant amount of time and attention and care to the detailed questions that we will be grappling with. So I did want to flag that this is

part of an ATRT1 recommendation that we are just sort of on the cusp of actually implementing. So it probably will require all of us to allocate sufficient resources and capital, all of the resources we have with the different sources of expertise that we will need to bring to bear.

So I just wanted to underscore that connection.

Thank you.

CHAIR SCHNEIDER: Thank you very much for these useful suggestions.

With this I would like to end this session and move over to our next session, which is number 8, which is about community applications.

We've already started to discuss this at previous meetings, and the lead again is colleague Mark from the U.K. And we are very delighted to have with us this time the ICANN ombudsman, Chris LaHatte, who is here with us and is willing to chair with us his experience on this issue. And you have received it on email. Very recently, a report has been finalized and published by the office of the ombudsman on issues also related to community and community priority evaluation.

So I would like to give the floor to Mark, that he can introduce the issue and position.

Thank you very much.

MARK CARVELL: Yes, thank you, Chair. And we've got half an hour for this session, and it's -- the topic is a long-running one for the GAC. It's an area of concern that a number of successful community-based applications is quite low; that there have been problems with the priority evaluation process, the CPE. We've heard a number much complaints and criticisms. And those that have been rejected now face difficulties with regard to the situation they're in in terms of contention and the prospect of auction be processes taking over.

So I've updated the paper I prepared at the last meeting in Buenos Aires, and that does recount the previous advice that the GAC has given on this issue. And the paper also provides a look forward in terms of what we can say in the communique and with regard to anticipating the next round and overcoming the barriers and problems and difficulties that have faced community-based applications in this round.

As Thomas has said, the most recent development is the publication of the report by the ombudsman, Chris LeHatte to

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my left. And so my paper has been overtaken in that respect, so please bear that in mind.

We've circulated Chris's report, and we do appreciate very much Chris joining us today to explain how this issue has crossed his desk, his mandate for investigating it, and broadly, if you would summarize your conclusions and what you would like the community to bear in mind as we look ahead to the next round. How we can avoid the situation which we seem to have arrived at where the public interest goals of advancing the interests of communities through the processes that were set up for the current round perhaps have not been realized. And that there's -- Some of it might have been systemic, some of it might have been procedural, but there's no doubt that there are corrections to the approach taken, lessons learned, and ways that we need to identify as we prepare our inputs into the reviews of the current round with regard to this specific issue, the interests of communities and advancing community interests worldwide, with the opportunity that the Domain Name System provides for them as the system continues to expand and create greater opportunities.

So without further ado, I'm going to turn to Chris to introduce himself to the committee and explain his approach that he took with regard to the responding to the complaints that crossed his

desk, many of which I think match exactly the kind of issues that came to our attention.

So without further ado, over to Chris.

Thank you.

CHRIS LAHATTE: Thank you, Mark. Chris LaHatte for the record.

Thank you for the opportunity to talk about this.

One of the reasons that I started to have a look at the CPE process was the way in which the ICANN ombudsman operates as one of the accountability functions of ICANN. And of course in another context, we're talking about accountability functions in connection with the IANA be transition. And it's important to note that as well as the reconsideration and IRP processes that have been talked about a great deal in that working party, that my office also is part of the process of holding ICANN and the community to account when necessary.

The ICANN ombudsman is a very different sort of office from anything else in ICANN. I don't actually have any powers to do anything. I can only ever recommend that something happens.

I would hope if I come to a considered view that something should happen and I tell the affected parties accordingly, that

they would listen to me. But I have no way of enforcing that. So it's important to note that.

But nonetheless, as part of the accountability function, during the applications for new gTLDs, if any party came to my office with a complaint about the process, saying that they had been treated unfairly or something happened which was irregular and outside of the process, then the new gTLD team at ICANN treated that as something which would bring that application to a halt while the accountability issue was investigated.

A considerable number of applications did come to me for one reason or another, and mostly, unfortunately, I wasn't able to make any recommendation which assisted them or helped them in any way, but the thing that concerned me was that their applications went on hold while that was happening. And we have to put that in the context of the fact that there are some of the applicants that are using the accountability systems to explore every possible way in which they can gain access to these names.

Now, without wanting to be critical of them, the fact that they have gone on from my office to then seek reconsideration in the IRP process has meant that applicants have had the process halted for a very long period of time. And I only need to say

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.AFRICA and not comment any further as an illustration of how that process has come to a halt.

So in that long-winded way I'm explaining the reason why I wanted to look at the EIU and the ICANN handling of community priority evaluations was that I have the power to investigate matters on my own motion. And this doesn't affect the processing of applications because I'm not dealing with one particular applicant, and, therefore, their applications would not be brought to a halt by me looking at this.

And so at the end of last year, I asked the Board for permission to do so. It's the only occasion where I need to ask the Board for permission to do anything. And I undertook the task of looking at this, and last week I issued the final report.

The way I got this material together was to approach the community and say, well, I'm interested in this. Please let me have your comments. I did my report, and I won't read it out to you because it's there. I've tried to distill the concerns that applicants have made and community members have made about the process. And I make some general comments, because one of the features was I don't think we really had any clear picture as to what the purpose of community applications was for. And I think that fundamentally flaws a great deal of the applications, because it's a little bit, to use that American

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phrase, a motherhood and apple pie issue. We think having communities involved in having a new gTLD is a jolly good idea, but then we have to think through why a community should have a new gTLD, what is a community and all of those sorts of other issues. And there was some discussion about this, but no really detailed philosophy as to why we should give communities priority. And that, I think, has caused most of the problems which have arisen.

In general, the process, in my view, worked reasonably well. There have there have been a few hiccups, which have identified. .GAY had a problem because some material was omitted, but aside from that, there seems to have been a very careful and thorough approach by the EIU and also the ICANN staff who were involved with this. But in the end, one of the things that I think we need to think about is that the EIU emphasized that they only ever recommend to ICANN whether a particular application should prevail or not and pass the decision back to the New gTLD Committee.

That committee has, I think without exception, adopted every one of the EIU's evaluations which is perhaps not surprising because they were a well funded and thoroughly professional process.

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So that's a general overview of what's happened, and I'm happy to discuss any aspect of the report or what I've done with everybody.

MARK CARVELL: Thank you, Chris, for that quick run-through, the rationale for your own mission investigation and the key elements of your conclusions.

One point I just wanted to check with you with regard to the EIU, the Economist Intelligence Unit which was tasked with implementing the Community Priority Evaluation, the point I just wanted to check with you as to whether you took a view on this is whether you felt that process was sufficiently transparent and whether there should have been appeal opportunities and so on. That was a specific issue which the GAC has picked up on.

Did you have any particular consideration of that? The transparency, the criticisms that we heard from applicants that they didn't know what was happening and they weren't able to respond.

Thank you.

CHRIS LAHATTE: I talked to numbers of applicants about the issue of transparency. Some were very happy with the process; others were greatly concerned.

You need to draw a distinction between what the EIU unit were doing, however, and what the string similarity and other tribunals were doing. Those other tribunals, the legal rights objections and others, were an arbitration-type process, and they were operated in a typical arbitration fashion with submissions made to a known arbitrator, and the result was then published.

In contrast to that, the EIU evaluation was a very tightly constructed template which required evaluation on a point-by-point basis. And that's very different from the more general process that would take place in the other arbitrations.

So you're dealing with a research and analysis process which doesn't fall quite within the same sort of legal process as the arbitrations. Having said that, I'm sure we could design a process that was rather more open so that people knew what was happening and how it was happening and what sort of things the EIU were doing.

As it turns out, when you read through all the paperwork which is all somewhere on the ICANN Web site, if you look for it, you

will see the basis under which the EIU operated and the way in which they undertook their research and analysis.

So it's transparent but perhaps rendered opaque by the ICANN Web site, which isn't necessarily the most user friendly way of finding out information.

MARK CARVELL: Thanks. Yes, obviously an element of consideration with respect of communication transparency. Just one more point I wanted to check with you before I open it out to colleagues here in the time that's available. I think we've got another ten minutes or so.

I mentioned the daunting prospect that community applicants that find themselves now in -- still in contention and the only way to resolve that is to go to auction. I mentioned that at the beginning as another difficulty. I wondered if you had any thoughts or that.

And one aspect I'm mindful of is that it's very difficult for some applicants in that situation to be able to get the resources, to get the sponsors, if you like, to assist in the auction process if they have to stick to the commitments that were made in their original application. I don't know if this is a point that's come to your attention, about you it's what we might term in English a

kind of double whammy. They failed in the CPE process, and now they find that they're constrained by having no ability to be flexible, for example, on registration policies because of what they committed to in their original application, unlike the standard applicants in the contention situation.

Any thoughts on that? I think this is an aspect of the consequences of these difficulties that we need to bear in mind the impact of the auction process.

Any thoughts on that, Chris?

Thanks.

CHRIS LAHATTE: It is possible for the community applicants to make changes to their application. It's not an easy process, but if any community applicants be that are facing an auction consider that they are prejudiced by the constraints of the application filed as a community application, they should then look to what they consider would make their application more appropriate.

But perhaps we should also look at the way the auction process works. That's going to be a simple and brutal process of the party with the biggest bag of money winning. And I don't think it's going to necessarily matter if you fine-tune your community

application because it's not going to give you any advantage if you don't have the money to outbid the successful applicant.

MARK CARVELL: Okay. So I invite any points, comments, or questions from colleagues.

Olof, you wanted to chip in, I guess.

Thanks.

OLOF NORDLING: Thank you very much, yes.

Just to complete the background picture while you're all thinking about what questions to put forward. There was also a community objection procedure where a community, regardless of whether they applied for a particular string or not, could object to a particular string. And that was sort of an arbitration solution that preceded, then, the community priority evaluation, which only kicks in when there is an applicant -- an actual applicant that has applied for -- as a community application and is in contention with other -- other applicants with identical or, well, confusingly similar strings. So just as a background that there was a three-step process, really. First the community objection; then community priority evaluation if applicable; and

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finally, if that misses out, then you have the auction to make a final resolution of the contention situation.

Thank you.

MARK CARVELL: Thank you, Olof. That's a very helpful addition to our information on the situation and available process, if you like.

I saw the European Commission wanted to speak. Anybody else? European Broadcasting Union.

Okay. We'll start with the European Commission and turn to the EBU.

Thank you.

EUROPEAN COMMISSION: Yes, thank you very much.

Well, thank you very much also to Chris LaHatte for his report. I know that many in the GAC were very concerned about this process and many of us had complaints and criticisms about the process.

So first of all, I think that your assessment has been extremely useful in shedding some light on exactly what happened, what

the conditions were, how it worked, but also identifying how a future you process, if ever there is one, could be improved.

And it seems to me that from the GAC perspective, this is what we should be looking at now, how to make any future process, if there is a new gTLD round, could be improved with respect to the community applicants. And it seems to me that one area -- and I think this is reflected both in your paper and in the background documents for this agenda item -- are clear that the public-policy aspects, the community-related aspects that are of interest to the GAC are areas that should be particularly emphasized in the future.

So I wanted to congratulate. It's a pity we can't do anything to this particular round and to correct some of the perceived wrongs, but I think your report was extremely useful in at least showing us where the errors were and how things could be improved in the future.

Thank you.

MARK CARVELL: Thank you, European Commission. Thank you, Megan.

Giacomo, the European Broadcasting Union.

EUROPEAN BROADCASTING UNION: I have some -- some data that I want to submit to the attention of Chris LaHatte in order to have his reaction, because I see, I think, that not this data not properly reflected in the final conclusion and recommendation, and especially on what the European Commission said suggestion for the future that is quite lacking in the final version of the report.

We said as ICANN community that there was a particular interest for two kinds of application in the last TLD domain application, that was the geographic-based names and the community; okay?

The geo names rate of success is more or less around 85%, apart of some cases we all know, and one will be discussed in a few minutes after us.

The community rate of success is less than 25%. Even, I would say, probably nearer to 20 than 25%. So four out of five application has been rejected. And among them, last week there was the .GAY as mentioned by Mark that was rejected based on the nexus criteria; that this is a link to the community and representation of the community all around the world. In a world where in 60 countries of the world, the .GAY could be illegal or considered illegal because homosexuality is a crime. So there is a problem there in what nexus means and how you can apply this principle to specific cases.

But even if we consider that 20% or 25% is a low rate, but is a rate, none of those that have been approved in the CPE are today operational three years after the process of the new round has been launched. Because all of them, all of those that has been approved by CPE are blocked in reconsideration requests, CEP, and IRP.

If you look at 80%, even more than the current contentions on accountability of ICANN, 80% of these are based on geographic and community application of the TLD.

Is this a proof that there was something totally wrong in the process? And if it is -- for me it's quite evident, how is possible that you are not -- you have been so shy in your report in not indicating the possibility of improvement or improvement that are absolutely evident if you read your report for the next gTLD round?

Thank you very much.

MARK CARVELL: Thank you very much, EBU.

Chris, do you want to respond?

CHRIS LAHATTE: I haven't dealt at all with the use of the other accountability functions. I think there's no doubt that some of the people who submitted said that that was an abuse of those functions. But the problem sometimes when you create a complex application system with quasi legal processes is that you have to be careful what you wish for because you'll get it. And one of the things that people wanted was the ability to pursue those legal processes.

In my view, there should have been perhaps a level of appeal from the earlier community objection and string similarity and legal rights decisions because that would have enabled a review, but that doesn't help the community applicants going through CPE, because of course we have a structure within ICANN that permits the use of reconsideration and permits the use of IRP.

A number of people have said that there has been considerable gaming of the system by the use of the processes. I can't comment on that because I don't know why they have made those decisions. I only can form suspicions. But if you have the ability to use an appeal or an accountability process and you've put a large amount of money towards making an application, of course you are going to use those processes. And it's difficult to criticize people for doing so.

What we should address, perhaps, is the speed that we can push those processes through. And I observe that the IRP process can be tediously slow, in particular.

Among other things, I do some work as an arbitrator myself, and I have got fairly strong views on case management of arbitrations. And it is possible to push matters through an arbitration process, particularly if you avoid issues such as attempting to get discovery or attempting to get witnesses there and present. But, you know, out there there's a lot of lawyers briefed by the applicants. They're going to do their very best to ensure that they prevail for their clients, and they will use every conceivable system. So you have to then consider was what we set up overall unfair? Was the ability to go through reconsideration and IRP if you are unhappy, was that unfair? That's something you would need to consider for the next round. But it's difficult, as I said, to criticize people who use structures and systems that were in place to try and gain strategic advantage.

MARK CARVELL: Okay, Chris. Our time is almost up but I see two more requests for the floor, Thomas, if we're okay to proceed.

I see Council of Europe first, and then Switzerland, yes?

So Council of Europe. Patrik, yes.

COUNCIL OF EUROPE: Yes, Patrik Pennings, Council of Europe. And I think what we really need to consider here is a more global perspective on the whole issue, and that is human rights perspective and the protection of minorities, the protection of freedom of expression, and the consequences that such decisions will have on the ability of the different communities to be represented in the domain names.

It's a crucial issue, because obviously in the end of the day, if it's only the money that counts, then there is a serious concern for the public interest and the defense of these different communities.

I think it is important to look at mechanisms in the future rounds that are going to strongly and much better protect the community from ultimately auctioning away domain names which are actually needed to protect certain communities in the Internet domains.

Thank you.

MARK CARVELL: Yes, thank you, Council of Europe. That's a very valid point in respect of our public interest mandate for reviewing this particular issue, the issue of rights for communities and securing advancement of those rights.

I had Switzerland next, or did you, Olga, want to respond on that particular point?

UNKNOWN SPEAKER: (Off microphone).

MARK CARVELL: Okay. Let's go to Switzerland next and then Argentina, Olga.

SWITZERLAND: Thank you, Mark, I will be very brief. I think it's understandable that the ombudsman report is constrained by what is, what are the rules. So it's moved itself in that room. But here we should talk about what should be. What should be the next round, what should have happened. So that should be our perspective.

And I guess or I have a feeling that the goal of the community-based applications promoting public interest and diversity has been largely defeated in this round, and I think that's a fact. So we should be mindful of that. And we should look to what are the elements, the incentive structure within the framework

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which was established, be it that you needed 14 out of 16 points or be it that you end up with auctions or private auctions where it's clear that commercial players have a clear advantage over noncommercial players. We have to look at that and really take action I think. Because the public interests at stake are relevant.

So I think we should think about that and really work out the possible solutions in order to make sure that this doesn't happen in future rounds and that we establish the right incentive structure to ensure that the public interest is met in this case.

Thank you.

MARK CARVELL: Thank you, Switzerland. Very well put.

Over to Olga. Thank you.

ARGENTINA: Thank you, Mark. And I would like to support the comments made by the Council of Europe and Switzerland. What we found in the working group of protection of geographic names and new gTLDs, which somehow relates with what has been said in this sessions that it seems that public interest has different meetings in ICANN environment.

So for our country, public interest is the interest of the community and of our people. So we should work perhaps in enhancing and trying to define what is the interest of the public, what is public interest, because sometimes it depends on who are you talking to, what does it mean in this environment.

Thank you.

MARK CARVELL: Okay. Thank you, Olga. Well, we have to wrap up there. I have to thank very much Chris for joining us today. I'm sure he has a very busy schedule, so it's much appreciated that he has been able to present his perspective on things and summarize the main points from his report.

As I mentioned right at the beginning, I've got some sort of ideas of what we might say in our communique on this important issue as we look ahead to the next round. But we can discuss that at another opportunity, the exact formulation.

But, Chris, did you want to say something?

CHRIS LAHATTE: I just wanted to say thank you for the opportunity to discuss this, and I'm grateful to those who took the trouble to make submissions to me on it. They were very thoughtful and useful

and helpful, and let's hope that we remember all of this when we set up the new version of the guidebook for the next round.

MARK CARVELL: Indeed. Thanks.

Over to Thomas.

CHAIR SCHNEIDER: Thank you, both of you, and those who participated in this discussion.

As Mark has alluded to, the question is how to move this further. My proposal, picking up on his paper, the updated version, is to have a text in the communique, again, that reiterates our concerns based on the proposal that Mark has outlined in his text.

If you agree that we would add something, I would ask our able secretariat to add one more thing to the communique draft, the first one that will come out, the first draft, and then we can have a look at this concrete text and hopefully not spend too much time but spend some time on working a message out that is acceptable to the whole GAC but that reflects that discussion that we've been having here.

If that is okay, if there's no objection to this, then I would say that we still have 19 minutes of our coffee break left.

And coffee is not outside. I think again it's here in the back of the room, because last time some people, including myself, have been look outside for coffee and realized that there is no, because it was actually in the room. So for those who are new here today, coffee is behind you.

Thank you very much.

And thank you, too.

[Coffee break]

CHAIR SCHNEIDER: Okay. We will continue with agenda item 9 on our agenda, which is on the geo names working group of the GAC. But before we do that, I would like to give the floor to Tom who has an announcement to make.

Thank you.

Tom, please go ahead.

TOM DALE: Thank you, Thomas. As people are taking their seats, and I'm sure you are, just to remind you, and for those of you who were not here yesterday, in our quest for more efficient recording of who is here, we mentioned yesterday we have a door prize if you please place your business card or even write out a new business card, if you wish, but only one entry. There is a bowl at the door where Tracey is now standing and waving the door in the best Lotto-draw tradition. Please place your card in that bowl, and we will, a) know that you are here, and, b) you will be eligible to win a fabulous door prize in the very near future.

Thank you, Thomas.

CHAIR SCHNEIDER: Thank you, Tom. So please put your business cards in there. For those who do not have business cards or who ran out of business cards, small sheets of paper are available to create new ones on the spot. So just this is important. It helps us to keep track of who is here, who is attending, which is in all our interests.

With this, I would like to hand over to Olga, who is the chair of the GAC working group on geo names. Olga, the floor is yours.

Thank you.

OLGA CAVALLI: Thank you, Chair.

Good morning back, everyone.

This session we will discuss the progress made in the working group of geographic names and it's good we had the discussion about community applications before, because some information about objections and conflicts that were presented in the first round of new gTLDs were mentioned, and that may be useful information as well for this session.

Before we explain what we have done, I would like to make a brief information about background of the working group as we have new members in the GAC, and we may have others that are not following this issue so closely.

Julia, can we go to the next one?

So after the Durban meeting, in the Durban communique, there was a special reference that the GAC would work with ICANN and with the ICANN community to try to avoid the same conflicts and to refine the rules for next rounds of new gTLDs as some conflicts appeared when some names related to geographic

names or some communities were used as new gTLDs requested by -- not necessarily by the countries involved in those regions.

The working group started working since then, since the first meeting after Durban, which was Buenos Aires in 2013, and we have been developing different documents. One of them, which is a draft document prepared by the working group, not endorsed by the whole GAC but prepared by the working group, was open for public comments, which is something quite new in the GAC, and we receive an important amount of comments. We presented them in the Singapore meeting, and we have prepared an abstract of these comments received that is in the new version of the draft paper that we are working in.

Which are the objectives of the working group? And again, I think it's good to mention this after the session we had before.

What we are intending is lowering the uncertainties for different parties related with any new gTLD process. For the applicant, for the countries, for the regions, for the communities. So I personally would like more success stories than objections and problems. That would be my desire. So maybe that's the aim of this working group, lower uncertainty and have more success stories and not so much objections.

Prevent and avoid misuse of names which are relevant from communities, names that are not in official ISO list or official

United Nations lists or those lists that are specifically mentioned in the first Applicant Guidebook. Those names that are important for those who live in those regions, in those countries, in those communities, but are not necessarily listed in official lists that could be referred in a concrete document that could be the reference for the applicant.

Lower conflicts, of course, once the results of new round of new gTLDs will be announced. This is what I said before. And give some background information for ICANN and for the GNSO and for those who working in the policies of the new round of new gTLDs. So this is the objective of the working group.

If you want to know who are members of the working group, that information is in the private part of the GAC Web site, if I'm not mistaken. It's not in the public one. It's the one that you need a user name and a password. If you don't have it, you can ask the secretariat to provide it to you.

Julia, can we go to the next one? Thank you so much.

So what we have done after the Buenos Aires meeting, in Buenos Aires the terms of reference of working group were approved in the meeting we had in my country, and since then, the first step is to develop a working plan, a work plan that we have been developing with the members of the working group.

We received comments up to some days ago, so what I will do now is to give you an idea of what is the intention of this work plan and which are the ideas for the next steps. And of course we have -- I will mention also the comments that we received, and your comments from the -- from all of you will be much welcome so we can refine our work.

One of the objectives that we have at this stage is try to inject some outcomes and some information that we have gathered from these different documents and from the comments received from the community to the different processes that are starting now towards the next round of new gTLDs, whether in ICANN or in the GNSO PDP that is starting.

What with we find is some -- these outcomes or some ideas or best practices were present before. We are talking about them again, and we talked about them a few minutes ago in the other session. How could some of this ideas be enforced in a document so applicant and the interested parties could get in touch before and we can avoid and diminish the conflict that may arise after the presentation is made?

We also would like to prepare a compilation of experiences from the first round. This was suggested in the public comments as well some months ago.

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Find a balance -- This is very important because in the comments we received, there were a lot of legal concerns related with the use of names that are not specifically listed or protected in any -- under any different regime of ISO or by some countries or United Nations. And that's fair, it's a fair concern from the legal perspective. But we also think that it's fair for communities and for countries to have a right to say this name is important to us. There's millions of people live in Patagonia, maybe it's worth hearing what those people have to say and it's worth preserving the name.

So how to balance those legal concerns expressed by some members of the community and the national concerns or regional concerns. This is something that we should try to work on.

Other thing that was mentioned in the previous meeting session is the concept of public interest. What we found, and I would like to thank ACIG for helping me in that, especially Michelle. She's not with us today but she's in the virtual world. She helped us finding what does public interest mean in the ICANN environment.

What we really found was a mention about what ICANN is working towards, is stability be and resiliency of the Internet, which is okay, but we didn't find a specific definition of what is

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public interest in the ICANN environment, specifically talking about, for example, the use of these terms in new gTLD rounds.

So that is something we may work on. I heard many times that public interest concept mentioned in the previous session. And my interpretation of that mention was that it was the interest of the communities, it was the interest of the people of the countries that were living in some places. But from an applicant perspective, that could be a different perspective. That could be a different meaning. That could mean that they invest money to develop a business using a name for a gTLD, and they have their rights and some legal basis. And that would mean also public interest. So this is something that it's important that we define, because if not, we may find in definitions and difficulties in the process.

Julia, can we go to the next one, please.

I know this is horrible. You cannot -- this is too much text for a slide. But, as I know that some of you use these Power Points as a reference, I included it. These are the best practices that we have been developing in the working group. In general, what they tried to achieve is an approach in between -- an early approach in between the applicant and the country originally involved. And also from the applicant -- the ICANN perspective, outreach is an issue. If you look at the -- also for the community

applications and also for general applications, in the first round of new gTLDs, you will see that the applications made from Africa and from Latin America are few compared with those made from Europe and the United States and Asia. So there is an outreach thing.

I can tell you, honestly, I talked to many, many people in Argentina. And it's difficult to explain what is a gTLD. So it's not easy. It needs time. It needs a lot of information. It needs, perhaps, some incentives from the economic side or whatever.

So ICANN should work in enhancing the outreach efforts, also in enhancing the participation in these discussions in this community. There are many countries that perhaps they are in the GAC as we are growing in number. But not so active in order to maybe say something or raise concerns about what is happening with a name that is related with their interest.

Also what we notice, some of us, is that the process for governments to raise concerns was difficult. I'm not saying it was -- it was somehow effective. But it was difficult. It's a long story to tell. But, if you want some details, I can give them to you. So maybe that process should be enhanced or make it better.

I will leave the slide to you to read later on. But I think is the most important things.

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The thing is I participated in ICANN for several years. And I've seen many lists of best practices. And sometimes they're just desire or aspirational things. The fact that they become reality, they are not usually what happens.

I remember -- and some colleagues are in the room and working with me at that time. In 2007 we finished the GAC rules for new -- and, Suzanne, you were there -- GAC rules for new gTLDs. Do you remember 2007? And it was a lot of work. And it took us a lot of time. And, honestly, I didn't see the impact of our work and of that document in the outcomes of the first round of new gTLDs. And there was a special mention that the applicant should contact the country and the regions. That should be enforced. How is that enforceable? Is that enforceable, or is it just a desire? If it's a desire, would the applicant follow any good wishes of the best practices, or will it just remain as an aspirational document?

Can we go to the next one, Julia?

So these are some -- this is a very concise extract of some of the legal concerns that we -- that we received as comments when we circulated our draft document, which, as I said, is not a GAC document, is a working group draft document. This is important to distinguish. So some of the comments were, from the legal perspective, governments have no exclusive or priority rights

over country or geo names. To have such rights would require the creation of a new international law. Trademarks rights are legal property rights and exist in -- international forums exist related to trademark terms. Geographic names may be used as trademarks. Sovereign states have no rights over the use of geographic names outside their own borders.

Whether this has a legal basis, some of us, some countries think that we should find a balanced point in between these legal concerns and the interest of our people.

Can we go to the next one, please? How about public interest? As I said, we didn't find a single definition of public interest in the ICANN environment. I remember -- this is totally out of the slides. I remember queuing in a public forum session in Toronto, I think. And complaining about Patagonia.

And the person behind me -- and I spoke about public interest. And the person behind me was an applicant. And he said, "The public interest for me is to get the application done and respect the law that gave me the right to do that." So you have two different positions. You have this problem. What we personally would like to have is less conflicts, less conflicts at the national level and at ICANN. So maybe we can work in trying to define what is public interest, especially from the use of geographic names and community names. Julia, can we go to the next one?

Some comments we received about this working plan that I have just summarized for you.

The EBU, Giacomo, sent a very interesting comment about that. We should consider enhancing the ISO lists. Just to remind you that we spoke about this when we started the working group. The thing about lists is they are difficult to maintain. It seems I got to know yesterday that it's expensive to maintain list. Not only difficult, but it implies a budget issue.

We will explore with Giacomo other sources like the United Nations group of experts on geographic names. I know that Giacomo was making some research on that. So his income will be very important.

We had some comments from Peru and Chile, which were extensive. But I summarized in one only sentence that we should consider other sources of information like WIPO and UNESCO. We have Milagros here, and we have our colleagues from Chile so maybe they want to give more details about that. The colleagues from Australia and the United States said that the working group should respond to comments received from the community. And this comment was received very recently. So I will welcome clarification. How could we, the working group, proceed with that so we can understand how we can move forward?

And Australia made a comment about if community applications should be included in the scope of the working group or not. I think that the working group is really very much focused in geographic names, which is the mandate from the GAC advice. But somehow the two areas overlap, so in some analyses we may find references also to communities.

I think I will stop here, and I will take comments from the floor. As I said, this is the work plan that is developed and after our terms of references were accepted in Buenos Aires. And I will take a queue starting with Milagros. Peru? Help me. India. United States. Milagros, go ahead, please.

PERU: I prefer to speak in Spanish. With respect to the proposal submitted by Olga, she has made a great summary based on the huge amount of information that we have. First of all, I would like to make a comment regarding the suggestion that I think my Chilean colleagues concur with it. First of all, to take advantage of the progress that is being made in some international fora with respect to the same topic, even though the topic is not -- not too much progress has been made. In this respect, the debate, the discussion, is really reaching some outcomes. If we consider that international law -- international case law is built this way through discussion, through debate, it won't be good if

we at ICANN decide not to consider the progress that is being made in international forum.

Secondly, with respect to the observations that I have seen in some of the slides shown, there is a repeat mention to trademarks. The problem is not a trademark. The problem here is the community behind that trademark. And that is the issue that have made ICANN to include in the manual for the allocation of the new TLDs, the inclusion of geographic names.

The idea is to protect a community. And, if the identity of that community matches a trademark, the problem is not the trademark. The problem is the community.

The day before yesterday at the Schiphol Airport in Amsterdam, it happened that there was a person with a backpack showing a trademark that is named Quecha. Quecha is the French -- as the backpacker told me, Quecha is a language spoken in all the Andean communities. The countries that have the Andes mountain range know well about that. And it's also an ethnic group. The Quecha is -- the person that speaks Quecha. There is an Aymara speaker because they speak Aymara. The Aymara community speaks Aymara, and the Quecha community speaks Quecha.

So these communities -- and I guess that this happens all around the world with different names, with different languages -- these

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communities do not have a clear location. A geographical location. They're spread throughout the region.

So let's assume that in the future, the Quechua company owned by French capital is willing to register a dot Quechua domain. I think that the Andes countries would have to object to that registration and not based on any geographical indicator. It's just on the basis of a community, of an ethnic group that lives in a certain area that covers the whole of the Andes mountain range.

So the idea of protection of a community has to prevail when confronted by a brand or something that it's only attributable to a geographical location. So these are some details that we have to bear in mind and that will arise in the future. It would not take them into account right now. Thank you, Milagros.

INDIA: Since this is the first time I'll be speaking here, so I will take this opportunity to introduce myself to the GAC. My name is Rahul Gosain, and I am director at the Department of Electronics and Information Technology, government of India. I am the authorized GAC representative of the government of India.

And my submission is as follows: As the GAC representative from Argentina pointed out, both in this session and the last one,

public interest seems to have multiple different meanings in the ICANN space. At the same time, public interest is of key importance for all governments. And great value is attached to safeguarding such interest. There can be broad standards or tests which can be put forth to determine what is or is not in the public interest to lower the uncertainties related to the stakeholders involved in the new gTLD application process. But the final evaluation has to come, it has to be, essentially, on a case-by-case basis. Even though there are competing interests from the same community, such evaluation should dictate that the public interest could not have been solved better in some other manner.

Separately, from a process standpoint, I think it is important to try to standardize the procedures related to procuring permission or non-objection from the relevant governments to whatever extent possible. This should help avoiding creating situations in the future where we are left with opposing narratives regarding the facts of whether the permission or non-objection was obtained or not. Thank you.

OLGA CAVALLI: Thank you very much, India. I have United States.

UNITED STATES:	Thank you, Madam Chair. I appreciate the opportunity to weigh in and share our thoughts. Very grateful for your slide deck as well, because it reminded us of the outstanding comments that we received in our experiment. As we all know, that was a very useful experiment where a GAC subgroup developed a proposal that was not even, I think, completely approved by the subgroup and not by the GAC, but a very, very interesting proposal that was circulated to the community for broad input. And we believe we received some very substantial responses.

And, from our perspective in interpreting the comments that came in, the majority of them actually raised some very challenging questions. And a lot of them did have to do with the underlying legal basis, if you will, for the proposals in that particular document.

From our perspective, it's hard to see how we proceed much further down this road without actually trying to tackle the comments that have come in, without actually trying to answer the questions that have been raised as to the basis for the proposals in the paper.

So I'm glad you mentioned, Olga, the 2007 principles. Because many of us in the room still now do remember those days. But some of you might not. But there was another step in between that perhaps we are forgetting. And I'm going to look at my

colleague by the end of the road here, Germany, Hubert. When we developed the GAC scorecard on new gTLDs, there was quite a bit of attention devoted to the protection of geographic names consistent with the 2007 principles. And Germany was holding the pen at the time. And we ran into the same challenges that I believe this working group is running into that, in the interest of having, as India has suggested, a standardized approach or as the guidebook recommended and the GAC concurred, predictability in the process for applying for a new gTLD, we did turn to existing third party neutral sources such as the ISO list, such as the UNESCO breakdown of regions, so that the community could refer to these external sources and know quite precisely what was protected and what was not.

And the problem we encountered in the 2010-2011 time frame is precisely what we're still grappling with, quite candidly.

So I note with interest that you referred to the ISO list. And I think the EBU has also cited the UNGEGN. The ISO list comes from the U.N. The ISO is an international standardization organization, does not create these lists. They come from the U.N. They are the names of countries, and they are the 2-letter and 3-letter variants that are used for a variety of purposes all over the world. To add names requires us to -- and all of us, of course, are represented in the UNGEGN.

So I confess I had not had the time to consult with my colleagues at the State Department who actually represent the United States there. I'm happy to do that. But I have a sense that the answer is not going to necessarily be one you might like to hear, which is we are not about creating new lists. Or there needs to be a purpose, a clearly established purpose for creating new lists. So lists, as we all know, are very, very difficult to create, difficult to maintain.

On the other hand, there does need to be, from our perspective, a balance struck between other existing legal protections -- and trademarks are legal protections -- and the interests, the public interest that we have struggled to define.

So we think Michelle's paper was -- the ACIG paper was extremely helpful in that regard, because it shows us what the challenge ahead may be. We're not entirely persuaded we can come up with a sort of binding definition of the public interest that could be used in the next round of new gTLDs.

So, if I could close, though, we feel very strongly that it's hard for us to understand how we can make progress without addressing all of the significant and very credible concerns that are apparent in all of the comments we have received. We think we need to tackle that first, because we don't know how we can make the case without creating new international law.

So I do think we have to sort of confront that fact that, yes, we have principles, yes, we had aspirations. The trick is how do you implement the principles into practical rules and standards that can then be implemented by the entities that are actually seeking to apply for new gTLDs.

So we're in your hands a little bit, Madam Chair, as to what the precise next step might be. Happy to contribute to the work. We do think this is important. But I didn't want us to forget that the GAC has tackled this issue once before. And we were not able to point to a neutral third party source of information that applicants could be guided by. And we think that's pretty important.

So, as you yourself have noted, there is a need to strike a balance. We have to provide certainty to the marketplace so that people know what they can and cannot do. On the other hand, at least in the United States we do feel we need to have a substantial legal basis for asserting positions on the part of governments. Thank you.

OLGA CAVALLI: Thank you very much, United States. Before I give the floor to Switzerland and to Thailand and Germany as well, okay.

I agree with you, it's challenging. I am not sure how -- and maybe I refer to our chair how to do that -- how the working group could respond to that. But we may work and find ways to do that. And, of course, your input will be much welcome.

As I said before, this is my personal comment -- I would love to have many successful stories and not objections and problems.

And, at the same time, yes, the scorecard and, yes, the 2007 new gTLDs rules blah, blah from the GAC. Now we have the experience of the first round. And that's concrete experience with concrete examples and concrete objections. So we have some -- we have learned -- we should have learned from this stage, from this first round.

So I will give the floor to Switzerland

SWITZERLAND: Thank you very much, Olga, for giving me the floor.

I would like to make a couple of comments. I think that the -- how the term "public interest" is defined or understood in the ICANN environment is a recurring issue. There is, for instance, correspondence between the ICANN board chairman and the GNSO on this very topic from a couple of days ago where it is clear that -- and there's work to be done on a bottom-up

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multistakeholder fashion to really get to grips with what this concept means.

And this will be a general topic to be discussed within the PDP for the new gTLD round. So we should be cognizant of that and try to work out some way for the GAC to really feed in to that process and to provide our views on the public interests, which is also an issue which has been identified as a problem by the GNSO. So it's -- it would be very useful if, from the first stages of this process, we engage in that PDP. We engage with GNSO. We engage with the rest of the community in order to define public interests or how we can define it in each case.

And, regarding that topic, I think and I've contributed a couple of times to the workings of this geo names working group. That's probably the one way to define public interest in the absence of lists which are already established are in the absence of very clear international law. Because here we are creating policies, after all, in our bottom-up multistakeholder fashion. In the absence of that clear reference, we should establish processes. And I think in ICANN we are very good at that in establishing processes. And these processes should be inclusive, give a say and give a voice to all affected communities where the public interest is affected. Provide also predictability, as Suzanne said, to commercial stakeholders, too. And be mindful of the diversity and to the different public interests which might be affected in

each case. So perhaps a fair process could be of help for finding the public interest in each case.

Thank you.

OLGA CAVALLI: Thank you, Switzerland. And thank you for your contributions in the working group, which are very much appreciated. Thailand.

THAILAND: Thailand would also like to propose the additional perspective into the working groups. Because I think that last resorts of the geographical names is the government support and non-objections, which in the Application Guidebooks, it's not clear. GAC is legitimate representative of government to ICANN.

Thailand had the case that they can get the support and objection later from any department in the government. You talk about Internet. Maybe half the government is involved. So which department can issue? We have the case that the ministry of industry issued the letters or like U.K., as example, how could we know that that the ministry of music, sports, relate to the Internet?

So I think that those are the loopholes in the applicant guidebooks as a last resort maybe urge the working group to

really work with the new gTLD that are coming out. Because that is the last defense we can make. Without the non-objection or support letter, they cannot go through with geographical, which is required.. That government needs to issue the non-objection order of support and really can standardize in the way of the GAC. Because the application guidebook states that the applicant may consult with the GAC which relevance the main words may be need to be taken out. And this must be more specifically that the GAC needs to keep the advice which government department issued in non-objection or supporting letter on the geographical names. Thank you.

OLGA CAVALLI: Thank you, Thailand. I think that early contact between the two parties would be a very good thing to have. Germany.

GERMANY: Yes. Thank you, Chairman. And thank you for the presentation. I think it's quite helpful. And it reminds us on an issue we need to find a solution for for our next round.

I would be a bit more cautious about a question like our U.S. colleague already mentioned on defining the issue what is a public global -- public interest on a global basis? I think this would be very challenging. And, from my point of view, it is a

question where we may have different points of view in each of our countries. And different understanding to what extent a certain issue is a public policy issue and it's relevant. I think it's reflected, to some extent, in our national legislation. Where you see issues that are of public interest, you have a rather strong likelihood that it's reflected in your own legislation.

And that brings me to an idea of proposals that we might also consider is to what extent certain issues you want to reserve -- or certain geographic names you want to reserve on a global basis.

These names are protected on a national basis for our own ccTLDs. If I come with our German example, we have some legal protection for geographic names in Germany. There's always this issue that to some extent we have also some trademarks, and this, let's say, difficulty to decide in certain cases whether the trademark interest prevails against the geographic name interest, or, contrary, these are decisions that are made normally in Germany from our courts and insofar, we have a solution. At least we think that it's rather clear what is a geographic name and what can be used and what not. And so far, maybe, if you look at other ccTLDs, you may find some solutions where you say, okay, this can be -- this is protected in our country and, therefore, we should seek to find a protection also on a global basis. This just something I just wanted to bring in.

But as I said, it would be really difficult to find a real good approach that fits everybody. And I also would join your observation that it is really difficult to come up with lists, because if you recall, I don't know how many applications we had discussed in the GAC with this GAC advice issue on geographic names. If I recall the discussions, it is always difficult to it -- It would be difficult to find exactly these names on a list. If you reflect, your own country names that were discussed and challenged afterwards, would you have produced the list where this name was on? And if you consider it this way, it would be very, very difficult to find a list where all of these names that were on this list would be reflected -- that were discussed were reflected in a list. And in so far, I think it's really challenging. And, yes, hopefully we find a way forward and move forward.

In this respect, as you know the issue to opening the possibility for the GAC to give advice from my perspective is not the worst idea of solving this issue. And, indeed, we have solved most of the controversial issues by a GAC advice. It was not always easy, but it was a modus operandi that proved that it worked in the end. And I'm not sure whether other options would come to a better solution.

Thank you.

OLGA CAVALLI: Authentication to you, and I fully agree with you that we are facing a challenge, but we should learn from the experience and perhaps try to improve.

India.

INDIA: Rahul Gosain, government of India.

Just to clarify in the context of the United States' comments, we were not suggesting standardization in terms of final evaluation, which would need to be on a case-by-case basis as specifically pointed out in my comments.

Standardization may be relevant from a pure process standpoint in terms of having model formats for letters granting permission, non-objection, et cetera.

To this extent, I totally agree with the comments from Thailand on the issue of standardization.

OLGA CAVALLI: Thank you, India.

And I have Netherlands and we will have to close the queue with Norway. Netherlands. Someone else, very briefly. Giacomo, and that's it. Yeah, we are totally out of time. So, please, these three comments briefly and we close.

Thank you very much.

NETHERLANDS: Thank you, Olga. Just a couple of comments. I don't want to duplicate what others said. First of all, I think public policy -- defining public policy in the context of geographic names is, I think, an exercise which will be very cumbersome and we won't, let's say, come to a result, I expect.

Secondly, I think we're talking about public policy and public interest, which is I think we should not try to make a distinction in only geographic names because also, as I heard from Peru, certain names can be associated with cultural, religious, other. So the connotation is not always geographic.

I think we should take into account that we face cultural and religious, regional geographic interests and sensitivities in countries and regions. So we cannot take it's just purely geographical.

That means that on the third point, I think having exhaustive list will not work to deal with this sensitive politic issues -- sensitive public-policy issues. List will not -- I mean, predictability is a good thing but it's not suited for these kinds of things.

So along with -- I think Germany mentioned this; I think also Switzerland mentioned this. We should engage early in the

process to have a method in which you cannot only use lists, but as in the first round, we have had the experience of an early warning. And I think we should try to have a similar kind of process in which sensitivities come up very early for potential applicants of potential names, and that I think the -- from the Netherlands' point of view, it's not like we should block a name and not be accessible somebody.

The principle should be do no harm with this name to, for example, a community which is behind. We are not in favor, let's say, of blocking and not having names at all accessible for commercial parties, other parties, but the principle should be do no harm and do not harm the interests of, for example, in Patagonia, the region, other examples. We have examples in which we have learned experience.

Thank you.

OLGA CAVALLI: Thank you. And Norway and EBU, please very short interventions because we are out of time.

NORWAY: Thank you, Olga, and thank you for the briefing and information.

I shall try to be brief, and I think also The Netherlands touched upon one of my main issues, because I think the actual target here is also what Suzanne reminded us about the original gTLD principles in paragraph 2.1 letter B. I just quote: The new gTLD should respect the sensitivities regarding terms with national, culture, geographic and religious significance. I think that is exactly what we are trying to achieve, and which was partly implemented with the scorecard, as United States pointed out. And we should not sort of try to -- well, reinvent the wheel. But as you also said, we should try to learn of this first round, and I think some of the lessons learned is to possibly go down the road, as Germany touched upon and also India, we probably must solve these on a case-by-case basis. Because we don't think it's feasible to -- either to develop lists of geographical significance or including maybe other significance, as in the paragraph 2.1. That would be costly and too timely.

And also, then the second step is to agree on protection of those lists, which is a second step in that case. So I don't think that is the way to go.

And of course our advice does not need to be based on identified international law but, of course, we are making on public-policy issues. But of course as long as it is not conflicting with international law, of course.

But I think we just should try to have a procedure to tackle this on a case-by-case basis early in the processes.

Thanks.

OLGA CAVALLI: Thank you, Norway.

EBU, very briefly.

EUROPEAN BROADCASTING UNION: Yes. I'm not sure that not act an option, because as I mentioned before, we have 90% of the cases currently in contention on accountability that are concerning, in a way or another, geo names or community names.

So I think we need to announce the capacity to prevent this kind of problem before that it happens. And if we don't do for the second round, will be a big mistake.

The second point is about what Thailand said. Of course this has been very important to have the national representative authority involved in the process since the very beginning, but this didn't solve all the problems, because we have level -- the level of the problem is not nationwide but is above. Continent or subregional names, Africa or Amazon, or below the country level. That means regions or towns. Patagonia, Spa, et cetera.

But on this, the list that has been mentioned could provide at least a predictability database on which we could work. So there are, in my opinion, possibly will work.

OLGA CAVALLI: Thank you, EBU. Thank you all of you. If new members of the working group can want to join us, just let me know. We have a lot to do.

I will work on the comments on the transcript, and I will circulate outcomes and some next steps with the group and perhaps with the whole GAC.

Thank you very much.

CHAIR SCHNEIDER: Thank you, Olga, and thank you for this discussion. We see that there is still some work left to do, and so we look forward to hopefully see a way to deal with this to the satisfaction of all GAC members.

We are slightly behind schedule now. Fortunately, we have an issue that is coming next that I hope will not take that much time. It's the agenda item number 10 on IGO protection. And I just would like to give you an update on what has happened since our last meeting in Buenos Aires in June.

You know that there is this so-called small group that has attempted to move this issue forward in an informal way for some time, but didn't have -- be didn't find the time to do this for quite some time, but we have done this after Buenos Aires. "We" is some representatives of the IGO. Suzanne Radell and myself as GAC members, some ICANN staff, people including Olof and Nigel, and also Chris Disspain as a board member has been part of this. And we have met in Paris at the margin of the CCWG meeting in July and have looked at the nonpaper that has been actually started sometime before, but then wasn't followed up and we have had a very constructive discussion. Mary Wong, who is also an ICANN staff member who is the secretariat -- or acting as secretariat for the GNSO working group on curative rights was also there, and we had a very fruitful discussion. We achieved a lot of progress in reaching a common understanding of what could be a pragmatical mechanism to get to a permanent mechanism, to get to a permanent protection of IGO names against abuse.

And since then, we have started to, in this small group, to work on that document that we have achieved a lot of progress.

It is not yet finalized in this small group, but almost. It's difficult to find time for exercises like this when we have something like ICANN accountability, which is keeping us all extremely busy. So it took us longer than we hoped, but we are getting there. I'm

fairly positive, and I hope that's being confirmed by Suzanne who was participating in this to the extent possible as well.

And so I have nothing on black-and-white to show to you, but that will come, hopefully, rather soon.

And what we also did, we reached out to the GNSO. We had a discussion with the -- contact with the two co-chairs of the GNSO, including also the chairman of the GNSO -- the two co-chairs of the working group of the GNSO, sorry. And with the chairman of the GNSO, we informed them about the progress that we have made. They informed us about where they are with their working in this working group that is looking at legal issues related to immunities, so on and so forth.

We also informed, then, that we hope that without bypassing formal structures that the GNSO have, but we hope that we would be able to convince them to, once the document is ready, to engage in a discussion about this pragmatic mechanism that we are about to form -- set up at least in the key aspects of that mechanism that would then need to be worked out in details in cooperation with all concerned parties. And their reaction was cautiously positive. As I said, they haven't seen the proposal either yet, but we hope that this will be done rather quickly.

So to sum this up, we are making progress. I have no paper to show you, but everybody is in contact. Everybody is trying to

constructively support a pragmatic solution. And this is more or less all that I can say to you, but I'm, of course, happy to ask -- get questions or receive comments on this. So the floor is yours.

Yes, Iran.

IRAN: Thank you, Thomas. No comment on what you have said, but I wish to invite the group with a small, or whatever you call them, to also look at the discussions which was held in ITU Council on the same subject.

When the secretariat of the ITU presented the progress on the matter, there was a statement from one administrations not to the contrary of that but deferring from was said, and that statement is also maybe warranted to be looked at.

So just as a supporting material, I invite that you look at that one as well, because the issue is for governments and issue is pursued and continue to pursued in ITU Council.

Thank you.

CHAIR SCHNEIDER: Thank you, dear Kavouss. I have no knowledge of this, but feel free to share this information with the rest of the GAC, if you wish to do so.

I have the OECD.

OECD: Thank you, Mr. Chair. I'll try to be brief because I'm conscious of the fact that everyone wants to go to lunch. But since this issue has been going on for so long, it's been part of GAC advice now for about three years, I just wanted to remind everyone in the room exactly what we're asking for and why it's important. We're looking for permanent protections of IGO acronyms at the top and second levels. This concerns a relatively small group of organizations, just under 200 organizations, if I'm not mistaken.

In addition, these protections are important for two reasons. First of all, protecting our acronyms in the DNS allows us to effectively carry out our work. Many IGOs are primarily or almost exclusively known by our acronyms. Our reputations are crucial to our effectiveness, and our acronyms are a fundamental element of our identities.

In addition, we have limited resources that come from public funds. So that means that time and money that's spent fighting domain name abuses is time and money that's diverted from our public service missions.

Second, protecting our acronyms protects the public from being misled by identities who pose as IGOs in the DNS. And just to

complement a little bit of what you said, Thomas, in terms of where we are, permanent protections for our full names at the top and second levels have been in place since April 2014 through a reserve list, and temporary protections for acronyms also through a reserve list remain in place at the top and second levels.

The IGOs remain concerned that this simple issue remains unresolved, but we also think it presents a great opportunity to demonstrate that the multistakeholder model can actually work.

The GAC has consistently issued clear advice on this issue for three years, so the IGOs hope that we can help the Board determine the best way to actually implement this advice.

So we'd be grateful if the communique to note the GAC's continued support for this issue by calling on the Board once again to support protections at the top and second levels, and it should take into account the IGO's limited resources and unique status under international law and also requesting the Board to maintain temporary protections while we work towards a lasting resolution to this issue.

Thank you.

CHAIR SCHNEIDER: Thank you, OECD. Other comments. United States.

UNITED STATES: Thank you, Chair. I apologize for taking the mic, because I know we have another issue on our agenda. And it's equally important to everybody in the room.

I did want to just sort of chime in to say of course we concur with the OECD's statement. I think the GAC has been fairly steadfast. But I would also like to make sure our colleagues are aware, those who are not members of this small group. I'd like to reassure everybody -- and I'm looking at my chair, and I think he would concur -- we have made enormous progress. And the NGPC has been extremely responsive to the GAC and to the IGOs. So I don't want to have the room think that this has been an uphill battle. Because, actually, it's been a very, very good example of solid collaboration and useful sort of educational exercise on the part of all parties, including colleagues in the GNSO who we think have benefited from our interactions. Because, again, the GNSO considers itself the source of new gTLD or gTLD policy. And so this has been a learning experience for them as well to understand how governments view IGOs, et cetera.

So I just wanted to close on a positive note. We, too, hope that we can bring this to closure. I think it was the United States that

proposed a way forward back in Toronto 2012. So it is three years. Hopefully, we can claim victory, if not at this meeting then shortly thereafter. Thank you.

CHAIR SCHNEIDER: Thank you. Trying to conclude on this question that was raised by the OECD. Do we need another text in the communique on this? And, if so, what should that contain? So, please, your views on this. Thank you. United States.

UNITED STATES: Well, thank you, Chair. And, while I have no issue with what the OECD has proposed, it may be a bit repetitive after three years. So I don't feel like we are actually hitting a brick wall. I think we are pushing at an open door. So I honestly do think we should be mindful of the fact that enormous progress has been made. There is an enormous amount of goodwill. And I would find it regrettable if our communique would seem to suggest otherwise, that this is somehow an ongoing battle and we are failing to convey GAC advice effectively. I personally do not believe that that's the case. And I would hope that my OECD colleague could work with me on a sentence that simply indicates that, you know, good progress has been made and we look forward to resolving the matter. Thanks.

CHAIR SCHNEIDER: OECD, would you be fine with this?

OECD: Yeah. We've been working in good faith on this all along. I didn't mean to imply that we were interested in anything other than a good faith resolution. So, obviously, I'm willing to help craft a positive sentence for inclusion in the communique.

CHAIR SCHNEIDER: Thank you.   Then please send whatever you have as a draft coming out of your consultation to the secretariat so that this can be included in the first draft that is coming out of the communique as soon as you have it, of course.

Thank you. I would like to conclude on this, because we have one item left. That is also recurring one, but an important one as well. So, if there are no more contributions or requests for the floor on the IGO issue, then I would like to spend the remaining time on the agenda item number 11, which is .AFRICA. We have a lead there which is the African Union Commission. Please introduce the issue and where we are with this to start the discussion. Thank you.

AFRICAN UNION COMMISSION: Thank you, Chair. Before handing it over to Alice that will take us through all these details on process, I would like first to apologize, as you said, on this recurrent issue. I would like anybody, as I was saying yesterday, to reply to me as senders due (indiscernible) the American people are sick of your email. So I don't want anybody from the GAC to say the GAC members are sick and tired of your .AFRICA.

But, moving forward, I will just -- and, by the way, we also are very tired of that, very tired of ourselves.

I will want really to have this issue solved. And we did whatever we could to make sure that the path are cleared enough for all involved parties to take the appropriate decisions and to move forward on this. This is why my interdiction would be just an update about what has been done so far to facilitate the resolution of this problem.

One, we have reviewed the testimony that has been prepared to the panel. And, while we have seen a lot of in consistencies and specifically from somebody who is under oath, we found that the backbone of the pleading or what has been presented to the IRP panel was that the United Nations Economic Commission for Africa has provided a support letter to those applicants that could have been used as the replacing the 60% letters support required from the continent.

And I found it very ridiculous, because I don't know how a United Nations agency could act on behalf of all African member states. It's like, you know, tomorrow somebody will stand up from the U.N. and say okay, I am going to send a letter on behalf of Portugal supporting issue or another.

This has made us very nervous. Because, if the panel could swallow this kind of statement or this kind of idea, then the panel did not understand exactly what had happened and what is happening. That's why yesterday I was telling that the panel should invite people who are affected by the affected parties. And that's why I'm saying also that we need to understand how the states function before starting, you know, to really pretending sitting there and judging or taking decision on their behalf.

Number two: That's why also the ministers, when they met in September, they decided that the U.N. agency should withdraw any support provided to applicants. And that letter has been provided by the Executive-Secretary of the United Economic Mission for Africa. And I think shared that with everybody with the clear statement of what African Union Commission thinks about that matter.

Number two: One of the issues that one of our member states, specifically, Kenya was using as the country that could or have

something against the process. I think yesterday I shared with you again a letter coming from the minister of communication of Kenya stating the position of Kenya with regard to the .AFRICA and their support to the African Union applicant.

So, lastly, the ministers have requested everybody who is involved with the matter speed up the issue of .AFRICA and solve it. .AFRICA is not a project. It's not a business matter. It's a program for all Africans to be involved in the economy. It's not something that is just -- how can I say -- just an application? It's an entire program for the entire continent to support them to really contribute to these issues. I know that this issue came in the very wrong time in terms of transparency, accountability, et cetera, et cetera. But, again, we need to move forward on this matter.

So, with that, I'll ask just my colleague here to take you through and to provide the details on the AUC position on this matter. Alice, please.

ALICE MUNYUA: Thank you very much. Thank you, Chair. And thank you for the opportunity to again present this issue to you.

I'm referring to the letter that was sent to the -- to our chair, two letters. One was requesting the sharing of GAC mailing list,

which was dealt with. And we agree with the sensitivities that were raised by colleagues. The Sunday one is the current one that is being sent from ICANN board to the GAC chair regarding providing rationale for GAC advice.

For us, according to us, the process for GAC advice is actually very well documented in the Applicant Guidebook. And we believe that the GAC colleagues in Beijing accepted the concerns endorsed by the AUC and its member states prior to developing that advice specifically relating to the support for -- governmental support.

And GAC as a collective, therefore, determined that the objections that had been presented by African member states and the African Union Commission was appropriate. And that's the reason why we decided to provide that consensus advice.

A quick reminder that GAC advice had to be submitted before the end of the objection filing period, which is dealt with in detail under module 3 of the new Applicant Guidebook relating to procedures, which is quite very clear. So we issued consensus advice against the DC application according to the mechanisms provided by the new Applicant Guidebook.

So, contrary to what is being said, that the GAC had not provided rationale, we had provided rationale. We had provided enough rationale and for a long time. And the GAC Beijing consensus

advice was the pinnacle of that long process of providing rationale. That rationale is contained in, for example, the GAC principles on new gTLDs, of March 2007, GAC comments on geographic names in a letter to the Board dated April 2009, the GAC scorecard that has very specific details on how -- on dealing with geographic names. And then the GAC early warnings.

And there were 17 of them coming from the African continent. And, in addition to that, additional correspondence in early warnings.

So, in response to this letter, especially the letter -- the current letter from the ICANN board chair to our chair, we wish to request colleagues to consider a response that notes this rationale, that notes the historical factors and the historical process. That reiterates this rationale, which we may not have included in the Beijing Communique but it certainly existed and still exists and to reiterate that advice contained in the Beijing communicate.

We'd also like to request colleagues to, if we could perhaps place this matter on the agenda for our meeting with ICANN board on Wednesday morning and also have it placed on the Dublin communique. Thank you very much.

CHAIR SCHNEIDER: Thank you, African Union Commission, for giving us this very valuable information. Comments, questions from the GAC on this issue? I see Namibia and -- let me look. You are not sitting at the same place as yesterday. Namibia first and then the gentleman in the very back and then the United States. Thank you.

NAMIBIA: Thank you very much, Mr. Chairman. I want to support and underwrite what Mr. Moctar said and my colleague from the AUC, Alice. I think very strong words from the AUC in terms of the introduction, which I think I share.

When following this, I just wanted to highlight that this is getting to a point of utter frustration. We have to follow the -- our own rules as ICANN. Where there is information that the first round or the first evolution has passed. And there's no support for the applicant at this stage, the other applicant. But we're now in a wait and see situation again waiting for possibly an extended period and so on so for the applicant to raise objection or to request a review again.

I do agree that from GAC side we have had a discussion this morning about the effectiveness of GAC advice. And our advice was given. And the question now -- begs now is was it effective

or not? Because we have to seem to revise again on the same issue.

I do think it's time for us perhaps to -- on the basis of our advice, to make a strong point and reflect our view as GAC that we want our advice to be really taken into consideration and really followed so that this matter can be disposed of as soon as possible. Thank you.

CHAIR SCHNEIDER: Thank you very much. Please, the gentleman in the back. Say which country --

KENYA: Thank you, Chair. This is Michael Katundu, the representative of Kenya.

CHAIR SCHNEIDER: Okay. Thank you.

KENYA: I want to support myself with the previous speakers, AUC, Alice Munyua, Namibia. I want to underscore the importance of this issue to be resolved as soon as possible. You have all seen the letter from the cabinet secretary,minister of ICT in Kenya, making it very clear of the position on the Kenyan government

as pertains to this issue. And, by so doing, we would expect no further confusion as we move forward to delegate this very critical asset of Africa.

Chair, the government of Kenya is ready to clarify any other pending or any other issues which may not be seen to be clear in the letter.

So going forward, Chair, I would want what's called a (indiscernible) solving on this issue. And I also support the need for further advice and for opening a registrar to be able to track all the deliberations and the advice which the GAC has been giving or continues to give to the ICANN board so that we can be able to take stock of how seriously our own advice is being taken going forward. Thank you so much, Chair.

CHAIR SCHNEIDER: Thank you, Kenya. Next I have United States.

UNITED STATES: Thank you, Chair. And thank you to all of our colleagues, the AUC and several GAC representatives from the region to share their views with us.

I was quite taken with the references to the need for a rationale for GAC advice. And I think we all recall that the Applicant

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Guidebook actually did not require one. This case certainly reinforces what I believe the U.K. urged earlier, that we should always provide a rationale so there is absolutely no confusion in the outside broader community as to what our intentions were and are.

And I seem to recall that during the Beijing meeting this was one of the first objections that the GAC addressed. And I think it was dispatched fairly quickly. Because my recollection is there was very broad understanding that the application that had not been endorsed by the AUC and its members did not meet the criteria in the Applicant Guidebook.

So I wonder, I know there was sensitivity about sharing emails. But I wonder if the currently confidential transcript from Beijing, that little portion that reflects the GAC exchanges about the .AFRICA objection could not be somehow copied, separated out and forwarded to the management, ICANN board and management since they have to respond to the request from the IRP panel. I note that the initial evaluation has now been conducted on the failed, if you will, or losing, if you will -- the application that the GAC did not endorse, in fact, had the objection to. And, in reading it, it appears that there is the potential for an extended evaluation. So my sympathies are certainly with the AUC and its members to communicating very quickly. I don't know whether we can stop that process. But

certainly we should be able to document the rationale for the GAC's objection and advice that is well over two years now. So I would certainly endorse that and suggest that we do take it up with the Board in the public meeting. Thank you.

CHAIR SCHNEIDER: Thank you. Before giving the floor to Indonesia, two things -- there are two things that we should respond to. One is, if I recall it right, it was not a letter, it was an email to me from ICANN legal to ask about disclosure of email exchanges to which we should give a formal answer. We have answered informally and also have answered orally, but they would need to have a formal answer. From what I understand, correct me if I'm wrong, that the answer will be we will not disclose GAC internal emails but, and then we may follow the suggestion by the U.S., will give the necessary information -- the information that is necessary for dealing with this case in our answer in the letter to -- in the other letter that we received about the rationale and so on and so forth. If that is one -- to deal with one half of it. The other half is the reply that we think we all agree that we should make to the ICANN board to the letter of Steve Crocker from late September, and we have a proposal from the African Union Commission that has been shared with the GAC some, I think it was, 1st of October or whenever, some two weeks ago, where I don't -- where I see support that we should follow this and also try and include the

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elements of rationale that have been given before that decision in addition to stating that we followed the procedures as outlined -- in good faith as outlined in the Applicant Guidebook and in addition there have been rationales given not in that communique which was the end of that decision process but that we may also add that we expect a panel to also look into the history of something and not just the last communication. This is something that we may discuss on how to formulate it but to signal that we think we have done our work correctly and then consider the matter settled what we are concerned in this regard. So if I don't see any objection, then my concrete proposal would be that we ask the African Union to give us -- to help us with a first draft reply text that we would then work on in the leadership team and share with you all before we send it out to the ICANN board, if this is okay for everybody. Any objections? If this is not the case, then I think we can go to our deserved lunch. U.K., you are standing -- and Indonesia first and then U.K., please be brief. Thank you.

UNITED KINGDOM: Thank you. I'm sorry, I don't want to detain us from much needed sustenance, but related to this for commonwealth members of the GAC, we will meet on Tuesday at 12:30, and the African Union Commission has asked for this issue to be put on the agenda for that. So a reminder for commonwealth

colleagues that we do have a meeting that will be chaired by the secretary general of the commonwealth telecommunications organization and this item will be on that agenda. Thank you.

CHAIR SCHNEIDER: Thank you, and I have to apologize to my colleague, to Indonesia, because I forgot him, although he is sitting very close to me. So please, Indonesia, the floor is yours.

INDONESIA: No problem, Thomas. We have been here for so many years, so it's okay. It will resolve (indiscernible) Africa as geo, so I -- but from my view, this kind of problems has rise -- has risen several times. In the early 2014 we have the problem of .SPA in Singapore. Yeah, I think that time the -- the GAC was -- we have the chairwoman -- no, I forget the name. And that time E.U. said more or less similar things like our EUC colleagues about .SPA and at that time the ICANN BOD can react in an appropriate manner honoring the -- the reluctance of European Union and at that time the GAC meeting was extended for two hours or three hours and I have late -- very, very late dinner that time. But at the end of the day, the problem of .SPA can be finalized. E.U. has to consult (indiscernible) and if I'm not mistaken my friend from E.U. can be consulted. At that time the BOD of ICANN can honor the problem of Europe E.U. and finally can have -- finalize

the problem of .SPA in a proper manner. So I believe this should be again carried out for .AFRICA. Thank you.

CHAIR SCHNEIDER: Thank you very much. And if there are no more requests for the floor, then we would break for lunch. See you all at 2:00 rather sharp. Thank you. And please don't forget, we will spend the first minutes of that slot on the safeguards issue that we postponed from yesterday too.   So we'll start with the safeguards at 2:00, just to remind you, in particular the colleagues.

 [Lunch break]