ICANN Transcription
ccNSO-GNSO CCWG Use of Country and Territory Names as TLDs
Monday, 7 March 2016 1030 UTC

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On page: http://gnso.icann.org/en/group-activities/calendar

Man:	March 7 2016; this is the CWG Use of Country and Territory Names as Top Level Domains. We are in (Diomont Room), and this session will run from 10:30 to 11:45 am local time.

Lars Hoffman:	Welcome everybody. To everybody sitting in the back, you're very welcome to join us at the table; there is no official differentiation of people in this room.

	Hi everybody. It's one minute past the official starting time. I think the meeting is starting to be recorded. Thank you, Brian.

	Welcome I suppose. I think - like I meant good morning. I'm going to pass the microphone first to the Chairs for a quick welcome. Brian, can you just go to the next slide? It's just the agenda coming up. I don't have my laptop open. Thank you.

	(Unintelligible), you want to have a quick hello or you just want to dive in? We do it this way, we do it this way.

Annabeth Lange:	(Unintelligible).

Lars Hoffman: We have the two at the (unintelligible). So I would suggest we do a quick (unintelligible) to see who's here for members of the working group and who is just here for funsies, and then I'll do a presentation of the Straw Man that everybody is waiting for.

I'll distribute a copy afterwards. I used to be a lecturer at the University. I know that if I distribute this now, nobody will listen to me and everybody will read so I avoid that. And so I'd rather have you check Facebook than read through this while I present.

And then we have discussions and any other business, and then we'll see where we take it from there.

So if we want to start off, my name is Lars Hoffman and I'm ICANN Staff. I'm supporting this working group, and to my left.

Annabeth Lange: Hello, I'm Annabeth Lange from the Norwegian Registry and the co-Chair of this working group. We're representing ccNSO.

Paul Szyndler: Good morning, I'm Paul Szyndler from AUDA. I also co-Chair this working group from the ccNSO side, and it's completely inadvertent that we ended up with the ccNSO co-Chair sitting on this side and the GNSO chair sitting on that side. Good morning.

Carlos Gutiérrez: Good morning; Carlos Gutiérrez from the GNSO Council and co-Chair. We are very happy about the engagement we had over the last two or three months, and that's why we decided to change a little bit and present the results of the great inputs that we got. And hope everybody will be as excited as we are. Thank you.

Heather Forrest: Good morning everyone. My name is Heather Forrest. I'm an academic at the University of Tasmania and a researcher. I am also a member of the GNSO Council and a GNSO co-Chair of this working group, so thank you very much for being here.

Susan Payne: Good morning, I'm Susan Payne. I work for a company called Valideus. It's the consultancy working with its new gTLD applicants, so I participate on behalf of clients in the Registry Stakeholder Group and I'm a member of the IPC in my personal capacity.

Clark Lackert: Well I'm Clark Lackert from Reed Smith's New York and I'm a member of the IPC.

(Jaboc Shent): Good morning, I'm (Jaboc Shent.) I am actually the expert on the ISO 3166 for this group and member of the 3166 Secretariat. (Unintelligible), sorry about that.

Ron Sherwood: Good morning, I am Ron Sherwood. I represent Dot VI and I am a member of ccNSO and the ccNSO liaison to ALAC.

(Iliniea Joe): Good morning. My name is (Iliniea Joe). I work for (Aflica) and also a member of the Registrar Stakeholder Group. I am here to observe. Thank you.

Sebastien Pensis: Good morning. My name is Sebastien Pensis representing EURid, the .eu registry. I'm here as an observer.

(Alex Alingovere): Hi, my name is (Alex Alingovere). I work for (Center) representing ccTLDs in Europe; observer.

(Abe Rushit): My name is (Abe Rushit); I work with the .tc Registry. I'm also a Councilor of ccNSO.

(Fredrick Delchir): My name is (Fredrick Delchir). I'm from the BI ccTLD.

(Yim Lee): (Yim Lee) from .kr ccNSO Council.

(Mohammed Joe): (Mohammed Joe) from (Unintelligible) Dot Com Registry Constituency; just observer, (ALAC) members of the working group.

(Alice Depayne): Good morning; (Alice Depayne); lawyer and private practice in Dublin at (Mattheson), member of the IPC and of the Internet Committee of (Inter) on the working group looking at this topic and observing today.

Maxim Alzoba: Maxim Alzoba (unintelligible) in the Registry Group.

Patrick Jones: Good morning; Patrick Jones, ICANN Staff and also ICANN's representative to the U.N. Group of Experts on Geographic Names.

Laura Hutchison: Laura Hutchison, I work for (Nominak) Registry for .ek; member of the working group.

Bart Boswinkel: Bart Boswinkel, (unintelligible) as well as Secretariat.

(Yoka Parker):   (Yoka Parker), ccNSO Secretariat.

(Martin Maletia):   My name is (Martin Maletia); I came from Tunisia, ccTLD Dot End Registry.

Lars Hoffman: Great, thank you very much. For everybody who sits in the back, you are very welcome to -- as I said -- come up to the table. And if you have any questions or would like to contribute, there's a mic there as well. If you would rather sit back and step forward, that is fine as well.

All right, having done that, we're going to quick off. For those on the mailing list, where we have decided as a group to move things forward by presenting a straw man paper/discussion paper on Three Character Codes as top-level domains. This is done by Staff on the request of the co-Chairs.

And we put this together. We're going to present this now. It's a summary of the discussion of the issues at hand and overview of the community feedback that we've received from the questions that we sent out. Based on that, some more discussion on what the different options are and what the advantages or disadvantages or pros and cons of the possible outcomes would be, and then a starting point for discussion for any future recommendations.

I'd like to point out at this point -- and it's mentioned in the paper too - that it is obviously not representative of any consensus, it's just something that we put together as a logical starting point for the group to take on and take forward.

All right, having said that, as you know, the issue here -- Three Letter Country Codes -- is identified in the ISO 3166-1 Alpha-3 standard; quite a mouthful. And as they apply as top level domains.

Historically, as you know, ccTLDs are two character codes; three and more character codes are generally gTLDs that have been a general rule or practice since the very inception -- and definitely of ICANN.

And if you also recall, we have the preliminary proposal on the two character codes -- which in fact, preserves this and says two character codes should not be allocated as gTLDs regardless of whether they're part of the Alpha standard or the ISO standard or not; they should be reserved as ccTLDs also in case there are any future countries that are being recognized. And therefore, to make sure that their two letters code would be available to them and it's not already allocated as a gTLD.

There's a few other things that I mentioned in the paper such as the fact that, as you know, the countries don't have any legal ownership of these lists or of these standards -- although they are obviously generally recognized by many people. There's also various organization, ISO is the standard that ICANN has used and relied on. It is, however, not the only standard or list -- and ISO is not a list -- but there are other countries -- the ITU, the IOC, the International Committee, NATO, et cetera -- that all have slightly different letter combinations.

My own country -- I'm German -- DEU as much stands for Germany. For me, it's GER or BRD; they're all different three letter combinations that I would recognize as being somewhat representative of Germany. And I'm sure that's true for your countries too.

So historically, from an ICANN perspective, the Applicant Guidebook for the new round -- as you probably know -- prevents the ISO-3 Alpha-3 standards or codes from being applied for as gTLDs, so they are on the reserve list.

The Applicant Guidebook does not elaborate on the Dot Com exception -- Dot Com or COM; COM is the ISO standard for the Comoros. That obviously is, you know, a relatively successful top level domain.

And there is - yes, as I said earlier, the countries and territories also don't have officially international legal rights to these standards; they're just recognized by people I suppose through convention.

As you know, in the Straw Man Paper, they're under discussion on the issues at hand. We sent out an outreach. For those who are not aware, the group sent out a request for outreach to all the SOACs and to the stakeholder groups and constituencies to the GNSO to give them feedback on their views on this matter of

three character codes as top level domains. And a variety, as expected, of opinions and preferences were returned.

There is a paper that summarizes this on the Web site. I can point to it afterwards. For those of you on the mailing list, it should have been in the inbox several times, so I'm sure you're familiar with those.

And basically, the responses can be categorized in three broad, let's say, preferences. The first is to support - to open all three character codes as gTLDs that pertain in the Applicant Guidebook supporting the status quo.

So sticking with the Applicant Guidebook says now, three character codes can be applied for. Only those on the ISO - only ISO standards are reserved.

And then the third one is to extend both three letter or three character codes in the ISO standard to the ccTLDs, so giving the ccTLDs, if you want, a second three character top level domain for them to operate. Those are the three broad preferences.

They will receive various supports from various groups. There's no easy categorization. You can't say that there's CC operators were in favor of Option 3 and so on and so forth; it's a wide spread. And there's some graphics in the summary paper that was distributed earlier. And for those of you that don't have it, if you hit me up afterwards, I'm happy to send you a link to that paper as well.

I'll give some overviews of those arguments put forward in the Straw Man -- I won't go through them -- and then some general observations that I put up in the paper.

As you know, as I said earlier, there's two of the ccTLDs have had exclusive access to top level domains since the inception of the DNS. And in fact, six of the largest TLDs in the DNS are country codes.

One of the principals applied for by the CWG, as I said earlier as well, the decision to maintain the status quo on ISO Alpha-2 codes -- so the two character codes -- namely to exclude all two character codes from allocation to the DNS as gTLDs to

maintain them solely as ccTLDs, and even those that are not part of the ISO standard cannot be applied for -- something this group agreed on.

So this is - I'm sorry. Then - just one second; right.

There is a couple of arguments that I do want to highlight for the various options. So there is the supporting of the extension of ccTLDs to three letter ISO code. Some people have said that would be their preference.

Supporting that extension, ccTLD providers and local government agencies would, however, not be consistent -- if you think about it -- with the simple and (unintelligible) principal obviously of this differentiation between two and three plus character codes between ccTLDs and gTLDs.

And there also would be an issue with the fact that if new countries were to be recognized in the future, that law of three character codes were already allocated. And so if a new country were to be recognized, there's a good chance that the letter code that would be allocated by ISO might already be operating as a gTLD. And whereas we are protecting that from happening for the two character codes, it is no longer possible to do that for three character codes because the catalyst of this is up the bank.

So there's a couple of issues with supporting making the three character codes available as gTLDs, so opening them all up and changing the Applicant Guidebook. The strongest argument for that obviously would be that -- or straw man against that would be -- that there is a possibility -- and people imagine this -- of user confusion.

For example, .nl as a country code, but then .nld -- which is a three character ISO -- would not be. And this could potentially be aggravated by gTLD registries trying to run a market or gTLD as a country code, and thereby creating unfair competition.

For example, you could imagine the situation where we have registered your name dot CAN -- the new domain space for Canada. So you, you know, you would all of a sudden create -- some would argue -- unfair competition would Dot CA, and it's just one example. This would work for any country; Dot NL, Dot NLD is the same issue.

However, it's relevant here to point out the recommendation of this as CWGs or there's preliminary recommendation to use the two character codes -- or reserve them -- for ccTLDs. There's a space in the prints about transparency and predictability and the preservation of a clear demarked space for ccTLDs that has guided this group so far, and I think it's important to guide them also for future recommendations.

And so making available three character codes that are not currently a designated ISO-3166 -- also three coat in future new (unintelligible) rounds -- risk the possible conflict of future recognition of countries (SSAT), and this would equally be construed as an argument to simply exclude all character accommodations from future allocations.

Yet there's 153 character codes there at the moment. And as I said, it seems an unreasonable practice to take them down and also to protect them from future abuse in case countries are going to be - so to preserve them for future countries being recognized seems to be very difficult.

Having said all that, as you can see, that argument against and in favor of the various options. So as a starting point for possible policy framework, we came up with the following -- and I'm going to read this out more or less.

The Cross Community Working Group recommends -- in brackets obviously -- might recommend/could recommend that the existing guideline under the Applicant Guidebook with regard to alpha three codes on the ISO-311 standard is to evolve to make all alpha three codes -- all three character codes -- legible for application as gTLDs in future rounds. So no longer reserving them, and of course the alpha three, that's making them available for general application.

Tied to this, however, would be two very strict conditions. The first would be that the legal entity applying for a string comprising an ISO 3166 alpha three code must not market the gTLD in competition with any existing two character TLDs. I think it was very important that this would then be contractually enforceable through the relevant registry agreement between the successful applicant and ICANN.

And also, obviously, existing strings and (unintelligible) rules and existing rules regarding geographic names should not be affected by this recommendation.

And just to cover the rationales that led to this -- this starting point for discussion -- this would be consistent with the CWG's two-letter preliminary recommendation. It would prevent -- through that condition -- (unintelligible) competition between ccTLDs and three character gTLDs.

It avoids the situation where ISO codes of some countries are protected, and those are for new countries or newly recognized countries on operation not protected, and thereby also taking into consideration - I'm sorry - the precedent of the Dot Com which is in fact a three character code already in operation.

So there's that. I'm going to send the Straw Man around for your perusal. And obviously, once we discuss this and there's any amendment or changes or reversals that come up from this group, I will implement them and then send an electronic copy later this week. And if there's no changes, then I'll send it straight away, but I'm doubtful that that's going to happen.

All right, I'll send this out and then if there's any questions, please go ahead.

Heather, please.

Heather Forrest: Thanks very much Lars. I would like to thank Lars very much for his work on this, Lars, and the policy support staff.

As you might recall, we did ask that Staff prepare a Straw Man which Lars has actually -- in the spirit of gender equality called a Straw Woman -- and did so in a fairly tight timeframe since our last meeting, and with the flurry of pre-Marrakech documentation and work to do that we've all been experiencing. So thank you, Lars, very much for your hard work on this, and particularly giving the timeframe before a face-to-face meeting.

Just to clarify for those around the room, we, the members of the - the co-chairs of this working group met Sunday -- yesterday -- I don't even remember what day it is -- just to look at the document for the first time to come together and see it. It was

something that we asked Staff to do knowing that - and if you recall, the general instruction to Staff was -- and Lars volunteered for his since.

The general instruction was please come up with something that is consistent with the work that we've done up to now, and come up with something that is reasonable or plausible -- if you like -- within the context of the very broad range of feedback that was received. And we knew we had a very hard task ahead of us, so that's yet another reason we should be thanking Lars for trying to take a stab here with this Straw Woman proposal.

Just to be very clear as well, this is not the view of any particular co-chair or indeed of all of the co-chairs. This is not a consensus position. This is very much a straw man or woman; pick your gender.

This is an attempt to get the dialogue flowing. I think Lars' intention as he expressed it to us as co-chairs was start off with a position that at least makes sense and is not inconsistent with the feedback that was received bearing in mind that that was very broadly made and/or representative of a variety of views.

And I'm one that would open the dialogue and not leave us in this position of sort of quiet complacency. So there you have the document and a bit of a perspective from us as co-chairs as to how we've gotten to this point. Thank you.

Paul Szyndler: Just while everybody is reading through the paper and getting accustomed to what Lars has presented, I just wanted to go back historically to look at where this group came from and where we're going to and why we're at a critical junction now. So more setting the scene at a high level than the detail that's in that paper in front of you because it is quite dense.

One of the main purposes of this group is to assess the way in which country and territory names have been used as CLD strings historically. This is a follow-up from the study group that preceded us -- just to make sure that we've essentially got everything covered.

Where this working group differs is that it's got that opportunity to go to the next step which is to possibly make recommendations for a framework, so can we harmonize it;

can we come to a system where everybody has a predictable model for how country and territory names will be used going forward.

As part of our analysis, we started with, obviously, the two-letter codes first, and that with its basis in RFC 1591 and traditional usage was -- for lack of a better term -- an easy topic to address because it's been widely understood as a space for country codes noting that some of those choose to operate and market their country code on a commercial basis or as a business. However, they still make the fundamental guidelines of a country code manager.

Now, we've hit the considerably more fraught issue of three-letter strings. And has Lars has explained and also outlined in the paper, as we've gone out to the community, we've received a range of feedback and it's exactly as - well, I imagine all the co-chairs would have expected that there hasn't been that clear delineation of how the three-letter strings of how three-letter strings have been used.

The Applicant Guidebook comes out and puts a prohibition on the use of any three-letter strings that represent countries, but that's already problematic because -- with the example of Dot Com and a number of others -- some of them are already in use. And as Lars said, the cat is out of the bag.

With my very rough math, we're talking about something like 17,000 permutations of three-letter codes out there. And there's something like -- as Lars said -- 153 used. Some of them are alpha codes. And just to set the context, even if you were to reserve all of the ISO 3166 codes, we're already talking about 249 of 17,000 possible permutations.

So it's not like country codes are coming into what has been traditionally perceived as a G space and demanding an extended exclusive right to use a large number of codes; it is only a very small subsection of the large space.

However, it does set an important principle or a precedent that hasn't existed before -- which is why what Lars has outlined in the paper is not neither a cup (sic) launched in terms of open use of three-letter codes as we go forward, nor an exclusive prohibition for country codes which was never forcing -- for example -- in RFC 1591.

So I expect to see a bit of a too-and-throw as to, you know, where we get to from here. But what Lars has presented is something as reasonably considered middle ground, and that's what we're very much looking forward to getting some input from the group -- either here today or also in the coming weeks so that we can work through this issue.

Annabeth Lange: I agree with Paul in most of what he's been saying here. And what we saw when we got all the input is very, very diverse, and that's not surprising because we come from different work and it's a scale from the end in both directions.

So if we can say that in what direction, use three-letter codes as ccTLDs; that's one on the far side. And then the other, perhaps, is taking - let everything -- no conditions, no rules -- be gTLDs.

So we have defined something in between that we can, if we can, try to end with something that can be accepted is sort of middle way.

And even from a ccTLD point of view, I think it's ruining the system to make ccTLDs three-letter codes. We shouldn't do that in my view, and what others have said, that's a condition with the system we have had.

But that doesn't necessarily mean that we open up for all three-letter codes in the other direction. So the ISO codes as it today in the Applicant Guidebook, as Paul said, is 249.

Paul Szyndler: (Unintelligible).

Annabeth Lange: That if we end up with just keeping it as it is today -- in the Applicant Guidebook -- that will mean that 17,000 -- approximately -- minus 249 will be gTLDs out there.

So then of course we have the problem with some already from the ISO list out there -- Dot Com of course. But it could be looked at as (Rom) said, it's a kind of grandfather status. Nobody talked about the commodis (sic) when Jon Postel made Dot Com.

It should never be three-letter codes. More in his view, it was those that had been selected for the three-letter general global domain. And Com -- in his mind -- was probably commercial. It was an easy way to take it. I don't think he looked at the ISO fear of the codes at all.

So when we discuss it, even if it's many views that's already on the table, I think you should be open when you read this paper and see how can we find a solution that we all can agree on. If we can do that, that will be a help for the PDP. If not, we have just to tell them that it's too different; we can't agree. Thank you.

(Jaboc Shent):   Well, maybe small correction about the history of Dot Com and Dot (Mel) and Dot (Adeo) existed. Before there was talk about county codes, so that's actually more - so, second guessing works on meaning versus always and an interesting game, but people don't need to do that.

Annabeth Lange: So what you said is that those three-letter codes existed before Jon Postel chose the ISO two-letter code list? Yes.

Heather Forrest: I suspect that it's - pardon me, this is Heather Forrest. I suspect that it's quite difficult to read on the fly. And given the time, it's why I stress our gratitude to Lars given that this was drafted immediately prior to this meeting, and discussed by the co-chairs yesterday.

There's always a challenge when you put a document down on a table at a meeting. It's - let's say we're all inclined to read as opposed to talk.

Lars, maybe what we do is if you're willing to reread - or everyone else turns to, and maybe Lars, you reread that final recommendation, it would be helpful. We have, unusually, we used to get an hour in our schedule and we have an hour and-a-half this time. And this is face-to-face we always find, we get a better dialogue than we do on calls. Maybe that's because of time zones or whatever.

If we can read out again that final recommendation, and maybe provoke some discussion that way -- just initial impressions understanding that you don't have an opportunity to read the entire document. Maybe that's the way to provoke discussions.

Lars, are you willing to do that? Yes, put out the final recommendation would be great I think. And then if anyone has sort of initial. I'm happy to offer my own comment; I'm sure each of us can come up with something to say. So thanks.

Paul Szyndler: Very short audition to what the app said. Just to have in mind that there are three-letter codes that are not international like Dot Gov is just American; Dot EDU is just American; Dot (MIL) is just not American. This domain preceded the cc's and was initially not American. Thank you.

Man 2: Yes, it's a point that is well noted, but this just all goes to the color and depth of the history of this, so there were - so a lot of - actually, all of what we're talking about now was not considered back then. These are legacy arrangements that were -- for the vast majority -- US based, and then as you mentioned, commercial-based.

That is not much that the ISO list has existed since 1974 or something like that. So all of that sort of pre-dates this conversation.

The difference between what we have here and the two-letter space is that Jon Postel did foresee a use for two-letter codes as outlined in 1591 and said that, you know, "These will be country codes," and then outlined some of the reasoning behind it.

He remained silent -- or the RFC did -- on three letter codes. So this is where we're breaking new ground and why the conversation is not as clear cut as it was in the two-letter space.

Just a reminder to the group, what we're aiming to do is trying to arrive at a framework -- some sort of compromise or position -- and as alluded to before, that we can put forward to the community that will advise a second round of new gTLDs where there is consistency and harmonization all the way across.

If we can't reach that -- if there is no agreement amongst this group -- we haven't actually failed because our scope is to identify if we can model or framework for going forward. So if there's deal breakers here, you know, so be it.

But Lars has outlined a potential center starting spot. And what we'd very much welcome is if anybody has any preliminary views on the conversation. What I'd actually welcome is views strongly on one side and views strongly on the other because that's a very good way to get a conversation started.

Lars Hoffman: Right, the meat and the full potatoes are up on the screen.

Man 3: Just one comment that immediately occurs to me from an observational perspective in relation to the first of the conditions, and that is the practical (unintelligible) that the condition would end up being legally enforced -- even if it is contractually enforceable. And I just wonder whether that needs to be thought through before considering further.

Lars Hoffman: I mean absolutely the answer to that. I think, let's say, if this was something that - I'm jumping ahead -- far ahead. So if this was something the group would agree on based on this condition, I think we would have to make some new consultations to see how this is phrased properly to everybody would be happy that this actually could be enforceable.

Man 3: But I think also there is a practical element to this, isn't there, in light of the past history of enforcement of these sorts of contractual provisions. Whereas I understand it, there have been considerable number of issues.

Lars Hoffman: Do you mind elaborating for everybody who might not be familiar with the issues that were a problem in the past?

Man 3: Just as I understand it, there has been difficulty in achieving enforcement of registrant contracts in particular and conditions in registrant contracts. And with, you know, ICANN or central bodies don't want to be involved in that, it seems to have ended up in very much a situation where things are not being enforced.

And I just wonder whether that's an issue here. It was just the first thing that occurred to me when you raised the condition.

Heather Forrest: Thanks very much for that comment; this is Heather Forrest. I can - of course contract compliance is a very big issue and it's one that various constituencies and

stakeholder groups within the GNSO take quite seriously for a variety of reasons -- a variety of diverse reasons I might say.

At least in my research in the history -- I'm speaking as a researcher now -- in the history of geographic name use in the (BNS) and contracts, what we have seen is really the idea of geography if we leave aside RFC 1591 -- which Paul has mentioned.

Geographic names come into the ICANN contractual framework with the launch of Dot Info. And there was a call put forward by Chair (Temeezy) of the GAC -- then Chair (Temeezy) of the GAC -- for countries to nominate names that should be reserved -- their country name that should be reserved -- from the Dot Info TLD.

And that actually got off to a very, very slow start and wasn't really wildly taken up.

And it turned into -- I believe -- with E. There was a set of appendices to the RAA for Dot Info, but it was Appendix E or something like this so that it actually became a reserve name. So it wasn't the type of condition that we're looking at here; it wasn't anything anti-competitive if you like.

But that is really the only history of contractual provision -- ICANN contractual provisions relating to geographic names.

But I take your point that (unintelligible) for context. We're dealing with a very different thing with what's proposed here which is an anti-competition provision, and I think you're right; that would require some consideration from a legal point of view.

I suppose, fundamentally, if we take a step back, what we're looking at here is a proposal for eligibility with a condition. And I would be interested around the room, how folks feel about eligibility with a condition -- whatever that condition -- and leave aside, perhaps, maybe the enforceability of that condition.

Maxim, please.

Maxim Alzoba: Maxim Alzoba for the record.

I have a question. We need to define the nature of competition because if we say something like Dot (COD) like it was a country, yes, it was a ccTLD, then it became, yes, like gTLD; it start (sic) using the like gTLD ideas.

So what happens is someone applying for Dot three-letters, they're not in competition by (unintelligible). But then some ccTLD decide to go the way of Dot (COR) in the particular segment which was used as a main idea for that three-letter gTLD.

We need to define to avoid situations with like the agent here. Thanks.

Man 4: Can I ask just ask a quick question of clarification is so what you're talking about is the reverse of the protectionism we're talking about for country codes, what if. And I struggle to think of viable three-letter codes, but CAN for some reason can for Canada. And if for some reason Dot CA then started marketing itself in the same sort of space as a commercial established entity, what would the issues be then? Okay, thank you.

Annabeth Lange: It's Annabeth Lange again. Back to the first question that was mentioned about the practicality of such a rule.

And it reminds me of the discussion that was going on on the use of city names in the first round because we ended up in the Applicant Guidebook with saying that if a city name -- a capital name like Dot Oslo. Now capitals were okay -- I'm sorry. But (Durgen), this is a Norwegian city.

If it's used to market it to the City of (Durgen), then you should have the kind of support and non-objection from the government. And if it's not used as market to the city but used for selling, for example, mountain shoes, then it was okay; you didn't need that support.

But then there was a big discussion about what happens if they get it, they say that they are going to sell shoes, and then after a while, they say that, "No, nobody buys these shoes. But we have an excellent opportunity to use it as a name towards (Durgen)." So a lot of discussion took place about post delegation and how this should be done.

So this is a really complicated question. So even if they don't market it as CAN or NOR or FRA, I think a lot of users -- applicants -- will still use it as a country extension. So it will be a kind of confusion anyway.

Heather Forrest: Heather Forrest again. Maxim, just to clarify and I'm following up on Paul's point, let's say if that's the direction you were going, the reverse confusion point, there I do see some legal challenges in the sense that what you're asking for is a condition on both parties' contracts. And that's looking backwards and that would be impossible.

You know, there's no way that our CC's are going to stand up and say, "Yes, I agree to this condition."

Maxim Alzoba: I understand that most CCs, they do not have contracts with ICANN. I'm not saying we should suggest anything on CC side.

What I suggested is was the situation where new three-letter commercial TLD had a letter of confirmation or something like that from the relevant look like CC. And then CC went into competition with the commercial; not vice-versa.

For example, I was applying for something relevant to boots, and suddenly, the CC went into that sector and then they show up with the formal compliance not saying that we are selling boots, and you promise not to do any kind of competition with us. That's was my point.

Heather Forrest: Just to follow-up, I think what you're describing is, if you like, you heard the term liberalization of the CC -- that a CC makes a decision to move into a new space.

I suppose my concern on this is how do we handle where I thought you were going was what should we do about the Dot CO? I mean Dot CO has gone through that liberalization process. It's an interesting question about competition with a CC that's already being used as a generic.

And to the extent that we had - forgive me, I don't have the app's knowledge; I had to look it up. But the three-letter code for Columbia is COL. If we had a COL, and what condition do we pose upon them that you don't compete with the actual use of Dot

CO or you don't compete with the CC character of CO. So that's an interesting - it's an interesting question let's say.

Bart.

Bart Boswinkel: Just noting -- say from my background what I know about the ccTLD world -- is I think just a caution to talk about CC's competing because, first of all, what you're effectively talking about is maybe the registrars competing. It is the rules are there which allows registration by others, but effectively, who are competing. It's not the CC itself; it may be the registrars.

So once you start drilling down competition of CCs who are effectively the competing axes. It may be the CC enables it, but it could be the registrars; so that's one.

Secondly is if you look at - I think Dot CO is a very good example. Dot CO or maybe - Yes, Dot CO is a good example. Dot CO is -- if you would look it up in the IANA database -- and Dot ME is another example of this one. If you would look at the IANA database who is the sponsoring organization, it is the government of Montenegro, meaning effectively, that under their offices (sic), the policy is set how they would interact.

So effectively, if we go down the path of what we're saying or what is suggested is you prohibit a government to set the rules or have a process of defining the rules, how they're ccTLD is run.

And I think before you go down that path, you need to take that into consideration if that's the real path you want to go too because that's one of the major differences between probably ccTLD that policy is set locally meaning that, in some cases -- or I would say in the majority of cases -- governments are involved one way or the other in defining the policy of that ccTLD.

So having questions about or having a discussion around the competition of ccTLDs, it is very difficult to put them all in one basket. There is a huge diversity on how they're run, how the policies are set because that's what you're really talking about when there is and who is the acting competitor; is it the registrar of the ccTLD; just a caution.

Heather Forrest: Thanks Bart; Heather Forrest. I just wanted to follow-up and perhaps make a bold statement.

I confess. I didn't entirely follow the point on registrars only because -- as you said as your second point -- it's a policy that originates from, let's say, what I understood from your comment about registrars, is that registrars can do whatever they want. It's however the registrar pitches it. And at the end of the day, that's not the case.

The registrar activity has to be driven by however it is that the CC has said we're going to run the CC. that's the policy decision taken by the CC and by the administrator.

So how is it that the registrars...

Bart Boswinkel: I don't know if it's still the case - sorry. Let me go back, say, when I was more involved with the ccTLD in the early 2000s. And this is the Dot NL case.

At the time, what I started to get involved with was a very restrictive ccTLD. But over time, it took about five years, it went completely open in the sense of people who are - there was no residency requirement anymore meaning effectively, people all over the world could register.

At the same time, at the time, we had around -- or the Dot NL registry had around 1700 accredited registrar. And it was very easy to become a registrar.

And the philosophy at the time was if you want to be a registrar, that's fine. We're not assisting in marketing the Dot NL domain, it's up to you within the limits of the -- I would say -- liberal registrar agreement between the registry and the registrar, so there is an accreditation program. And it was up to the registrars how they wanted to compete in the market.

The ccTLD registry itself was just facilitating. It was not promoting the Dot NL Dot level domain. That was up to the registrars. That was a real distinction between the role of the registrars and the role of the registry, and they competed among themselves. And if they wanted to -- for business purposes -- focus on other

countries or specific markets, that's up to them. That is the background of the (unintelligible).

Heather Forrest: Thanks Bart; Heather Forrest. Thanks for that clarification; that's helpful. But ultimately, I guess, I wasn't incorrect in thinking that it really stems from the starting point is the policy that is set by Dot NL let's say. The registrars couldn't, prior to the opening of that policy, prior to it becoming possible for other countries -- folks in other countries -- to register a Dot NL, a registrar couldn't simply step in and say, "Well, I'm going to go market in Cuba because I think that's a good open market."

Bart Boswinkel: In that sense, you are correct. There were - some of them trying to circumvent that rule, but that's not the issue, but that's more compliance within the registry.

Heather Forrest: That's for the compliance team at ICANN. Carlos.

Carlos Gutiérrez: Yes, this is Carlos for the record. This is a very interesting discussion, but I want to go back to Maxim's initial question. And I don't know if you want to comment on your question of competition because I might have some ideas on that.

Maxim Alzoba: The short clarification. The example is it was Dot Com then Dot CO appeared. Then they decided to do something like Dot Com. At this time, they created competition.

So if say that initial requirement is not to come into competition with the ccTLD, then we should suggest that some kind of paper from this particular ccTLD or - it should be done the way which is like three year like.

So when in - (Unintelligible) stations went in two-year term after the contractual - (unintelligible) construct - some ccTLD decides to mimic what they do and then to go to Compliance and say, "They promised to never to go into competition with ccTLD and they are in competition so they're in violation, so please cancel their TLD."

So I'd like to avoid this situation.

Susan Payne: Thank you; Susan Payne for the record. Sorry. Yes, I wanted to pick up on what Bart was saying about Dot NL, and I am sure you're correct on the history of that.

But I do think perhaps that is not necessarily how all of the CCs are now operating. So something like Dot CO -- since we're talking about -- I mean that's run very much as a commercial operation; it's not about the registrar competition.

I mean there is registrar competition, but I mean it's a decision at the top that it's, you know, that it's become a new kind of commercial space. I'm not saying that's wrong, I'm just saying I think it's not necessarily, you know, it's not necessarily just a registrar driven thing anymore.

And I guess picking up on what Maxim is saying, I mean I'm extremely supportive of the notion that we should find a way to free up the three character codes. I'm very supportive of that.

I'm also conscience -- I know there are these sensitivities that do exist on the CC side. And so while I don't really agree with them personally, I would be very supportive of finding a way that we could put some conditions on that would allow everyone to feel more comfortable.

But I think perhaps it needs to be that you - that the registry would not market itself as being the official home for the country. So it's not the competition with the CC because the CC may not be the official home for the country anymore. It's whoever is running the gTLD will not, you know, will not market themselves as being the official Columbia or the official Canada.

And then I think we have to recognize and be realistic -- and not have unrealistic expectations -- that the registrant can do what they want. So if I'm in Canada and I register a Dot CAN, and I run a Canadian business from that, that cannot be that the registry is in breach because that becomes a very difficult situation where you are then saying that the registry has to be responsible for how people use the domains. That goes too far I think.

Lars Hoffman: We have (Jolina), yes.

(Jolina): Yes, (Jolina), (Dot Care). I think that - I mean this is a very complicated situation. There are registries that have certain or CCs that have certain policies, and then there are registrars that have certain policies.

And so even if Canada gets the CAN and marketed it as yes we can, it doesn't mean that the Canadian registry that is running the Dot CAN is not thinking that CAN stands for Canada and that it is primarily trying to market that name.

I mean - so - I mean I think that there are many complicated situations. There are many unfair - I mean as Annabeth has said, there are grandfathered situations that we - I mean that have existed prior to anything. And so - I mean we cannot have a situation where everyone is satisfied.

But the fact of the matter is that certain countries still consider names that are related to their country names very important. And I think I'm - I guess I would like to echo what Annabeth has said in that just because there is this grandfather situation, we should let everything go.

And I think we should try to - I mean one of the main premises of the question should be that names related to countries or territories or cities or geographical locations are very important to the respective countries. Thank you.

Clark Lackert: Hello, this is Clark Lackert for the record. Just a couple of comments about what was just said and I think what Susan Payne just said.

I think we have to say -- at least my view is -- I'm very supportive of freeing up three-letter codes. Although I can see where -- unless you've done a lot of research on the subject -- I don't see any inherent right to have these three letter codes as far as legal right, but certainly as far as administrative convenience, I can see it. Of course, we've had the two-letter codes as sort of our established mode of (unintelligible).

The words in the language is somewhat troubling because -- which I want to go back to what was said before about competition. By its very nature, it's possibly anti-competitive. We'd have to look at what's not only the US anti-trust laws, of course the European competition laws, what we're doing here is in the contract, we're restricting trade. And it might be even (premifacia) anti-competitive.

So I would suggest -- this is just a possibility -- instead of using the words in competition, to say, "So as to create consumer confusion," something to that point.

So that we're not saying we can or cannot compete, but that we certainly don't want to be confused with an existing, you know, sort of two-letter code that would somehow create confusion; that might be a way around the competition issue.

And I also - one more point about the word competition. I think it's also invalid on its face as being void for vagueness because it really doesn't mean anything; it's what we're more making it mean. And it might be very much anti-competitive in the meaning we're trying to put here. Thank you.

Lars Hoffman: I think Heather was first and then Susan.

Heather Forrest: Thanks very much; Heather Forrest.

So it's interesting. I've listened with interest to Clark's comments. And I think -- Susan as well -- makes a very valid point that hasn't yet been emphasized and it's only just occurring to me now.

The concern seems to be around the confusion. And as Susan points out, confusion with what. And I think you're right to say, "Well, we're the Country and Territory Names Working Group." The confusion is with the country and territory; not with the CC business model -- let's say. And we're not here to shut down a particular business model; it's none of our business.

We are working group on the use of country and territory names. And I think - so that Susan's point needs to be taken on board.

With that in mind, what's the rationale for this condition? We said in relation to two-letter codes that the rationale can't be because I said so. And likewise here, we were quite careful in saying the rationale, you know, in the survey responses that we received, there were a whole - some responses received with rationale, some responses received without rationales.

Some of those rationales were because I said so or just because it is that way now. And we said that that's not something we really can go to the community with; that's not something we stand on two feet and say, you know, just because a group said so is how we're going to do this.

Our rationale for two-letter codes, we said the ISO 3166 is an external standard; it's an externally developed standard, it's externally maintained, and it has use in other context outside of the DNS. It has recognition if you like, and it has a strong historical use through RFC 5091 and practice here in the ICANN environment.

This condition that we're putting forward doesn't pass any of those tests. This is not a standard that we've adopted within ICANN. This is not a standard with the same level of recognition as the two-letter codes. I'm happy to be arguing against on that one. So I'm not convinced that this is consistent with our two-letter conclusion.

Furthermore, let's say a concern that was raised in a number of the comments is this condition suggests potential confusion is the concern, and we haven't proven confusion. And if we go down that road, you know, that's a much longer study; that's a much longer working group and we all put on our seatbelts and we get ready for years and years of work. If that's our assumption, I think it needs to be proven.

So I wonder, I think what I'm hearing is I'm putting my, you know, my comments to a conclusion. Having listened to all of this and taken all of it on board, I'm not sure that this condition - I think we have work to do on the condition.

Nobody has yet stood up and said, "We got it 100% right." I think it's a great starting point, but I think for the reasons that have been said, I think we probably want to tinker with it. So thanks.

Susan Payne: Thank you; Susan Payne.

Yes, I don't think I said confusion with the country. I think I avoided using the term confusion. If I used it, I'd like to withdraw it.

Lars Hoffman: No, actually, (unintelligible).

Susan Payne: Yes, once we start varying into the conversations about use in a manner which avoids confusion with the country or with the CC, this is making me very nervous because in relation to the two-letter codes at the second level -- which I know is going off topic, but in fact it isn't. all of the new gTLD operators are struggling through

what's now been a two-year mire of trying to get the use of the two-letter country codes released at the second level and having governments submitting comments that ICANN is saying there is confusion.

Those comments have no rationale or justification and no evidence or support. And we are, you know, we're stuck. And I would be extremely uncomfortable putting forward a recommendation that created that kind of nightmare for any applicants in the future.

Lars Hoffman: Before you go ahead. I really agree with you that the use of unfair competition is not lucky. Okay, and I fully agree, and we have to change these two letters because as Maxim already shows, it brings it in a totally different playing field. And we will have to fix that; we will have to replace the two words.

You spoke only about competition. I would add the unfair one as well. So please go ahead.

Clark Lackert: No, I just want to clarify. The only reason I mentioned confusion is sort of a compromise.

I'm not saying I necessarily support confusion or not, but I think that as an alternative to competition -- and we'd have to discuss whether or not this is actually a good thing or not -- but I just threw it out as a possibility. Thank you.

Lars Hoffman: (Unintelligible). I think we have ten minutes left and we have a Joint Council Meeting in this room right after, so we can't run over I'm afraid. So if I can have a last show of hands that aren't in the queue already if anybody wants to come in, please do so. Otherwise, we're going to move on to any other business and wrap up. And Maxim, I have you in the queue as well.

Annabeth.

Annabeth Lange: Mary can go first.

Lars Hoffman: Mary first.

(Mary Lou Duma):   My name is (Mary Lou Duma) and I just want to raise the fact that the three-letter code has not just been for commercial but could be in a position for an entity that wants to register for that one use.

And without - I give (unintelligible) for the countries that have (unintelligible) as their ISO 3166, that if they're communicated on time, if there is the outreach, the countries know that these things exist. Then countries will be able to give a yes or no or permission for the use of such (unintelligible).

But it might be very difficult to restrict everything because there are some (unintelligible) that are used for commercial purposes and some (unintelligible) that will be just a position of their name for their own personal use. Like we have (MTN) in Nigeria or (MTN) in Africa, that applies for new gTLD; it was not for commercial purposes but just for their organization use.

So those are things that will be put into consideration when we're making our recommendation. Thank you.

Annabeth Lange: Okay, yes Annabeth Lange again. Just a few things.

When we talked about the difference between the two letter codes and ccTLDs and three letter codes, and Bart's discussion about the difference, I think it's important to remember that with two-letter codes it's the local community that decides how it's run.

With good things and bad things because a lot of the CCs are connected with governments, and they have a lot of things that they don't want to have but they still have to do it.

But the main thing is that it's local -- positive local law -- subsidiary principles that prevail. And in most of the CCs, the money goes back again to the community in one way or the other to strengthen the Internet community.

Of course, it's someone that -- some of those -- that runs it privately and puts money in their pockets. But very few actually. And even CO is run by the government and they have decided that this money can come to the Internet community and do things for the Internet community in Columbia. That's one thing.

And the other thing is that you mentioned the legal rights; I agree. There's no legal rights, but it's no legal rights for anyone except perhaps if someone has a brand.

But even if it's not a legal right for someone, it doesn't mean that ICANN -- in the private contract with the registry -- has to give it away. They can decide if it's good, if it's good for the community as a whole, if it's good for their relationship with the GAC.

We still haven't had input from the GAC, and as you said, Susan, we know that that will be the next problem because they have strong views on these. So all things have to be taken into consideration.

Thank you for all the input. It's been an interesting discussion actually.

Lars Hoffman: Yes, thank you very much. Actually, one thing I'd like to add what I thought about doing drafting, it's just an observation for you to take away.

There's also a possibility that, you know, if we were up to open up the ISO list with whatever conditions attached or with conditions attached, that this would not prevent any ccTLD operator to apply for that string if they wanted to and run it the way they wanted to run. I mean that's something to bear in mind also hear.

It might create, in fact, new business opportunities for ccTLD operators in the long run as well -- which they can't do at the moment, right. They're not reserved.

So Canada, we had this example of any country who wanted to run Dot CAN, they can't do that at the moment either; that wouldn't be possible under the current rules.

With that, we're going to go quickly to any other business and then decide on the next steps.

Heather, please.

Heather Forrest: Thanks very much Lars. I'm not sure if this necessarily qualifies under any other business -- if it's the right place to put it. But in the GNSO, we have a real spirit of transparency, and we have a practice of announcing in meetings any changes or

updates to our Statement of Interest. And in light of the folks of this group, I thought that it would be equally transparent to do that here.

So as I said in the beginning, I'm an academic and a researcher, and I have been asked -- by lawyers working with Amazon -- to serve as an expert in an IRP that's been brought by Amazon in relation to their - pardon me - application for Dot Amazon.

And this is something that is traditional that academics and researchers do. It doesn't affect my participation here at ICANN at all. But that said, if anyone has any concerns with that, I'm happy to - you're very welcome to raise them with me. If you prefer not to raise them with me, bring this up, let's say, in light of the fact that I'm a Vice-Chair of this working group. If anyone has any concerns and they don't want to raise those with me, perhaps Lars or Bart, they could raise them with you. Thank you.

Lars Hoffman: All right, thank you very much Heather. Anyone else who would like to raise anything or has any issues? (Unintelligible).

Man 4:   Thank you gentlemen. Just one clarification regarding the second condition when it comes to possibility of framework when we talk about these geographic names.

I just want to ask if there is any document related to geopolitical and geographical names that we take (unintelligible) just the original document of that (unintelligible) of that 166 because I remember that there was some discussion going on. If there is any reference or document that can be used outside of that one that can take into consideration, geopolitical and geographical names for that working group.

Carlos Gutiérrez: I want to talk about (unintelligible) cases of geographical (unintelligible).

Man 4:   (Unintelligible) but not papers.

Carlos Gutiérrez: I'm not aware of conceptual work in this direction. What we are aware is that there are many examples of geographic -- new geographic three-letter codes -- the nominations. I mean we have a few years ago.

But I don't know if they qualify only as geographic and that's a point to be developed. And we have the case of (Sedwheel) that applied very recently for a three-letter code, CSR, in their script. We have the case of (Catalonia) that years ago, got CAT.

Less geographic than a cultural linguistic approach, I think, that's my impression. And we another new gTLD on geographic terms, that L-A-T, LAT, which is not a country base; it's a regional base. And it could be opposed to LAC ICANN uses for the same region -- LAC. But the region decided to use LAT.

So what we have is de facto development of a segment of TLDs that historically has been geographic. But in my personal view, it goes beyond geographic. It's starting to relate more to communities -- to linguistic communities, to cultural communities and so on.

And if you want to hear my private opinion is that in the new world, just sticking to geography won't lead us anywhere. I think as the new gTLD space develops, we will have to find a broader segment to deal with this issue. And in my view, it should not only geography; it should be linguistic, cultural and geography.

And I haven't seen anything about that, if that answers your question.

Lars Hoffman: Thank you Carlos. I think Patrick has something to add as well.

Patrick Jones: So Patrick Jones for the record. Just responding to Mohammad's question about including a situation or reference to prior work on geographic and geopolitical names.

In earlier paper that the working group created on two-character names, there was a reference to the work of 2007 Reserve Names Working Group. And that was a cross-community working group from the GNSO.

That paper has a section on treatment of geopolitical names, so it would probably be good to include a reference to that document in the next version of this.

Lars Hoffman: Thank you Patrick.

Okay, with that, I think we can wrap this up. What I'm - sorry, I'm going to speak actually to the microphone. What I suggest is that we're going to take this away and I'm going to take this away, and we're going to update the paper with some of the points that were raised today.

We're also going to look at the conditions and see how feasible they are and maybe speak for some of our colleagues from different departments and get back to you with their thoughts.

And I think you probably will also go back and read this through and think this over and speak with your colleagues, et cetera.

So bearing that in mind that we first suggested Monday, the 28th of March, for the next meeting. And then it was pointed out that that is Easter Monday, and for many of you, that is not a working day. So that would bring us to the fourth of April when we would probably have our next conference meeting together to discuss this.

I would encourage everybody strongly to go through the paper -- the updated version. I will try to send that out by the end of this - well this is ICANN week - by the end of next week.

And any feedback that you have, any thoughts that you have, please share them on the list. They will be very welcome. And I think we'll take up the bat then on the fourth of April and start up our bi-weekly meetings as of that date.

Unless there's anything else, I thank you very much. I wish you a good afternoon.

And for those who would like to hand around, the ccNSO-GNSO Council will meet in this room in about 15 minutes. Thank you and have a good day.

END