
MARRAKECH - GAC: Update on Sub Pro PDP WT5 - WHOIS and Data Protection Policy
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OLGA CAVALLI:

Good morning, everyone, we have only a half hour, so we have to try to profit from our time this morning. So glad to have with me my dear colleague and friend, Annebeth Lange from Norway and the other colleagues are from ALAC and from the GNSO.

I have shared yesterday with you a link with the PowerPoint. It's a long PowerPoint. We would like to focus more on the last part of the PowerPoint which in my opinion is the part that we have talked less about, and it may be perhaps of more interest to the GAC. I will quickly go through some slides that summarize what has been reviewed and somehow not received many comments against which are the recommendations up to 11 I think. And then we will focus on the remaining issues that we still have to review about process, and maybe Annebeth can help me here. What we have been doing in the last calls is review the comments that are summarized by colleagues and by the staff, we received many comments with diverse ideas and views. As you know, there are different opinions about the same issues, and the staff and colleagues, we have tried to summarize those and tried to check with you if there is something missing or if something that

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must be changed at this stage. We need to know that with some issues it's difficult to find consensus, we may not find it but at least we have the applicant guidebook from 2012 as a reference, and we will see if we can refine those rules for the next round and have some outcomes that could benefit the process.

So I can change here, right? So I will try to focus -- this is a -- this is the summary of recommendations we have been reviewing, these two slides, the number of recommendations related with some lists that we're not allowed to be requested as TLD's in the first round and somehow captured in this new revisions, and the recommendations you can check them and the documents in the Work Track 5 and there are no change to those recommendations, in general keeping the same restrictions that were before. Please Annebeth, correct me if I'm missing something at any point.

So those in green were reviewed in calls and in the email list and up to now we have no change from the text that we have shared with you in the general document. So what I would like to review with you is the open issues. One of the open issues of high interest to the GAC is known AGB terms. What that means for the Work Track 5, those terms not included in those lists that were not permitted to be requested as TLD's in the first round, that is the case of several geographic names, rivers, mountains, names important to communities, so that's something we have been

discussing for a while and there are different views I want to show to you and also we have some conversations about translations of those terms, if we have to use which language, some language, the official language, there are countries that don't have an official language, how to deal with the translation of these terms. Any comment, Annebeth? No? Do you want to say something?

ANNEBETH LANGE:

I think you covered it, what is left here the open issues, the most contentious area, I think we've done a great job to get through the things we have and if we can't find a better solution, the AGB probably will stand, in the translation here what we had in the AGB was all languages, and what we're discussing in connection with the translations is that too much and difficult in the process or should we reduce it to official language the more common language and the UN language and find more objective and curative procedure, important to hear the GAC's view on that.

OLGA CAVALLI:

Thank you, Annebeth. Other interesting concept is the intended use, it's if someone requests for a TLD if the intended use is related to the geographic meaning or no because some words that are geographic sometimes are also generic names or brand names or have a different meaning, not necessarily geographic, so the intended use is a concept to have in mind that may vary as

the way the TLD requested and also preventive protections, if the protection should be done before the TLD requested. For example putting the [indiscernible] together at the table and trying to get in touch to find a solution or after through an objection process or both. Sorry, this slide is very bright, so you have to wave to me.

KAVOUSS ARASTEH:

Thank you very much, I see you very well, yeah. As usual, charming, this is the first compliment of the morning. Olga and Annebeth, when you come to language, language is the most sensitive, super sensitive for each country and nation. I don't think people should reduce it in that way or that way, we're not the speaker for the entire nation of the country, the people of that country. Language is the communications, and we have the famous terms right to communicate, so we should not talk as reducing, because there is no [indiscernible] the last thing I have heard that I was on the phone, if you remember, a proposal of Jorge that we make statistics of all languages and then ask the country in question to decide. We cannot decide for any country. Even the representative of the country may be difficult to say I choose this language or that. I think we should take a more practical approach, if we don't have anything, [indiscernible] but we should not decide.

The only thing I disagree by the very distinguished Jorge is that the advisory panel decide, still, I think it's difficult, any panel

decides what language that country or people would use, so we should take the rights of the people or people of the country to talk about the language they want and so on, so forth, that is the choice, so that's just some point I would like to make, I'm sorry at the beginning of the introduction, I came in but a very sensitive issue, and I'm dealing with that in other organizations outside of the ICANN, how sensitive.

OLGA CAVALLI:

Thank you, Kavouss, I agree it's a sensitive issue and I want to thank you for being on the calls, and your point well taken and also from Jorge. About the open issues, I will go to the open issues, some proposals, and some comments in favor and against. Please know that these are high level notes. The document, you can review it, it's quite detailed but this is just a half hour session. One proposal is to develop onboard line searchable tool for prospective applicants, reports from several respondents and some think the ability to automated and potential cost to do such an online tool. Another proposal from GAC members is [indiscernible] because on Monday it was requested that we review this idea with the GAC. Another idea that the GAC members could assist applicants in identifying which governments and/or public authorities would be applicable when the letter is required. Something that happens is that the governments, we are not monolithic, we have different

ministries, agencies and sometimes when the letter comes from an applicant, it's not necessarily going to the right authority. So the idea would be that the GAC could be the link to assist to that, and the question goes now to the GAC and maybe with Manal we can review that in the next time, weeks, if the GAC is willing to take that role or not. This is a question that came up in the session on Monday and I think it's good to raise it here. We don't have to have an answer, you can comment but we can think about it if it's worth having the GAC assisting applicants in identifying which is the right authority to send the letter to. So there is support and others don't believe the letters should be needed at all.

Another proposal, if the letter needed, provide mediation services to assist if applicant disagrees with the response from the government of public authority. The letter sent, received, the answer not good, some mediation about that response, there is some support, qualified with support with concerns about cost and who would serve as the mediator. Concerns that mediation is nonbinding and does not necessarily increase the willingness to negotiate and some divergence believing the government or public authority should have the final. Before going to the other proposals, comments, reactions? Only 20 minutes left and other things to show you.

KAVOUSS ARASTEH: Thank you. I think the mediation should have [indiscernible] but not -- [indiscernible] some communications, but in any case they

would have a formal focal point, and that is the authority to gather the information and communicate and so on, so forth, but any mediation on the [indiscernible] basis, it's just advice, not obliged, the final word remains with the government and I don't think this time we go to the minority, majority, because here's the rights of the governments, I don't think somebody could say that an individual or party -- no, we're in the majority, the government shouldn't give the final vote -- who will give that? An important issue, so also sensitive with that issue, the final vote should be with the government and, I don't know if you have addressed it with the reply, I think with Marrakech we need[indiscernible] reply, not something that all governments agree, thank you.

OLGA CAVALLI:

Thank you. Annebeth, something to add to the slide?

ANNEBETH LANGE:

I think you had a vital point. We asked the commenters to set forward good ideas, new things that they thought could improve the process and the AGB so that's what we're discussing, and the problem is we have 38 proposal and is should we go deeper into some of them, not all are equally important but it's important here that you decide which of these proposals is worth going deeper into in the Work Track 5.

OLGA CAVALLI:

I don't see other reactions, so we will move forward. We don't have much time. Other proposals, [reading]. [refer to screen]. Proposal 5 where a letter is required from a relevant government or public authority establish deadline for response. If no response taken as non-objection, there is support, qualified support from those concerned about the accuracy of information, contacting party, deadline for response [reading] [refer to screen] somehow related with the previous recommendations, comments, reactions?

Proposal 26 and 34; 26 is raise awareness and increase knowledge among potential applicants [reading] [refer to slide]. The other proposal is providing an advisory panel, perhaps geographic names panel that applicants could contact to assist in identifying if a string related to a geographic term. The panel can help applicants identify which governments or public authorities would be applicable. There is some support to this proposal. The idea of this proposal, background, is that instead of getting to know who is the country related to the government, which agency or ministry in the government, the panel could be a point of contact for the applicants to check if to whom the applicant should have a check or contact or send a letter, so that's the idea of this advisory panel.

Qualified support from those that believe this proposal introduces legal issues in terms of liability [reading] [refer to slide] definition become as relevant issue and difficult one. But this possibility of having a panel has been reviewed. Another question that was commented on Monday was that some confidentiality concerns that some applicants may have. Some may want secrecy about their ideas or projects, understandable; so if they go to a panel, could be harm to their project, how to deal with that, sign [indiscernible] comments, reactions to this panel idea?

KAVOUSS ARASTEH:

I think the advisory panel role should be as facilitator, that's all. To contact the government, facilitate discussions but not decide on behalf of that, because for the advisory panel, it would be difficult to take this sort of representation the full knowledge of the country very difficult but no problem to have facilitating the issue that would help. About the [indiscernible] another issue but the most important issue, the panel shouldn't have the authority to act on behalf of my government, but facilitator is good to facilitate discussions, thank you.

JORGE CANCIO:

Thank you, Olga, and sorry for being a little bit late. In the in the preliminary report there is quite a lot of information about this panel as the denomination of the panel already tells its advisory,

so really the goal is to collect as much information as possible and be a help to applicants. And by being a help to applicants, it's also a help to relevant authorities because it reduces, let's say the translation costs in the operation of knowing a translation of a country name or of a capitol city name or whatever. So the proposal is really to help all the actors involved and is to be a place where relevant information on geo names is concentrated, and of course confidential is something we have been discussing for a lot of times and natural and what they would prospectively apply for.

OLGA CAVALLI:

Annebeth, comment? Let's move on. And the proposal 36: [reading] [refer to slide] this is similar to one of the other proposals, concerns about the burdens on the GAC members, [reading] [refer to slide] reactions? This is quite similar to the previous one. So let's go to the non-AGB terms, we have like ten minutes. Divergent views expressed about whether additional terms should be protected. The guidebook had some protections, there were about 5,000 strings that were not allowed to be requested, so the idea is should this rule be defined, more restrictions or not, this is part of the discussion.

Number of responses in support of increasing the number of terms protected in the applicant guidebook as well as the number

of responses opposing this idea. [reading] [refer to slide] in support of protecting additional types of terms, group of people who identify with a place have a right to be at the table, not limited to the 2012 AGB terms, to the communities, countries, regions involved with that string somehow be at the table with the applicant. This is one of the ideas suggested. These rights are particularly important for minority cultures and peoples and indigenous groups associated with a particular place [reading] [refer to slide] this is one side of the opinions. And let's see another one. [reading] [refer to slide].

Let me check. Reactions, comments. As you can see, this is a very high-level summary of all the comments and inputs we had in our report. As you can see, there are divergent views which are different. We have been discussing for a long time in the GAC. Comments, reactions? Annebeth, do you want to add something to what I said?

ANNEBETH LANGE:

This is one of the most difficult topics we discussed. We understand people in the world have feelings and identify themselves with places and culture and everything. But the other side, what they oppose is it's impossible when you don't have a list, because predictability is also an important part of the process. Sending in an application for a name, one thing is the

most known rivers and mountains, but it's a lot of places all over the world that nobody knows what is. And it could be both generic names, brands, and its geographic terms. And also geographic terms that can be several places until the world, the same name. So these are really difficult questions to find a solution that gives both predictability and also takes care of the national feelings, identification questions, the sovereignty questions. We know that WIPO has tried for years and years to find some way to protect geographic names, but so far, the world has not agreed on doing that. So if we can find a solution to that, that would be great. But it is difficult, so we need your input here.

OLGA CAVALLI: So as you can see - Kavouss.

KAVOUSS ARASTEH: With respect to the increase of the names, the conditions that you mentioned that if there is a need to increase, this is a condition, are we looking for some sort of warehousing of the names that you may not need it for the next 20 years, this generation decides this [indiscernible] so we should see to what extent this additional names are required, number one. And number two, I think we need to consult the people, the name belongs to them in one way or the other in some cases names are their identities, the culture, [indiscernible] so on, so forth so to what extent we

need the increase, absolutely minimum necessity for some years, and so on, so forth, second, you have to have the letter of satisfaction, you cannot decide for the group or remote areas, use your name without knowing what we are using, this is something we have to have. But at the end of your meeting, one point I would like to make; please allow me to do that with respect to all those things.

OLGA CAVALLI:

Okay, Kavouss, I will give you the last word. Several supports, proposal 2, [reading] [refer to slide] let me check some other proposals. (Continues reading) [refer to slide] we won't have time to talk about the translations, I will see if we have reactions of the proposals from our audience. I think we have reached the hour. Annebeth, do you want to add something?

ANNEBETH LANGE:

No, we don't have time to go through the translations, but Kavouss said something about that, we should keep them, yesterday, that's how far we got this time.

KAVOUSS ARASTEH:

The point I wanted to raise is the way that you reflect the results of this exercise. I mentioned in the chat and also the phone and the conversation that the team, or you the management, should

be very careful how you reflect the results. There are unidentifiable or uncountable numbers, you could say, some, majority, overwhelming majority, minority, small minority, better to avoid these things. Some people say [indiscernible] ball, but not some people say this and that, because it may be interpreted that others have the majority or vice versa, some in favor and some others against, leave at that, otherwise, if you talk about majority, overwhelming majority, minority -- it would be difficult. Please consider, this is very important results that you put to the attention of the people at the end of the exercise and then just having the floor, Olga, thank you very much, you put a lot of efforts, devotion, activity and valuable time and we know how difficult the geographic names are. So we thank you very much from the bottom of our hearts, and we encourage you to continue until you have some results, thank you.

OLGA CAVALLI:

Okay. Thank you, Kavouss, and thank you to you and Jorge, always in our calls and in referencing the work. Come to the calls, participate, let us know what you think. We are refining this. Not an easy task but we do our best.

MANAL ISMAIL, GAC CHAIR: Thank you, Olga, and everyone for participating. Please remain seated, and we will be proceeding with the WHOIS and data protection policy discussion. Thank you.

[END OF TRANSCRIPT]