
TORONTO – GAC Plenary Session
Sunday, October 14, 2012 – 16:00 to 18:00
ICANN - Toronto, Canada

CHAIR DRYDEN: Good afternoon again, everyone. I know you're having good discussions, but if we can begin to move to our seats, please.

Okay. I think we need to begin.

If could you please take your seats.

Okay. Let's begin.

So for this afternoon, we have a few agenda items proposed. And I think what we can do to proceed is begin by discussing the issue of IGO protections to make sure that we have sufficient time to address this issue this afternoon.

And then on the other items, we can continue as they are listed, I think, in the agenda.

A few points about housekeeping. A reminder to speakers to speak slowly. The interpreters are having some difficulty keeping up with some of us who are very eager to express our views. So if we could remember to slow down a bit and help out our interpreters, that would be appreciated.

On another note, myself and two of the vice chairs will need to leave at quarter to 6:00. So as the meetings may continue past quarter to 6:00, then I will ask Alice, who has kindly agreed to continue chairing until the

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meetings are concluded for today, and then Alice has, I believe, an announcement. There's going to be an African meeting in the room after the GAC, immediately after our GAC meetings conclude.

So I thank Alice for doing that.

And one note regarding a request that we had that the WHO have an opportunity to brief the GAC. That is going to occur at the end of today's meeting, so, Alice, if you could give them an opportunity to brief the room at the end of today's meetings. Okay.

So regarding protections for intergovernmental organizations, I understand that the representative that we have visiting from the Secretary-General's office would like to make some brief remarks before we begin our discussions.

You will recall that there was a presentation provided by the OECD on behalf of a number of intergovernmental organizations in Prague. And as I say, now we are fortunate to have representation from the Secretary-General's office to be with us in the meetings today.

So I will turn over to -- I'm looking for -- ah, you're here.

Please, if you'd like to have a seat.

And then I will try to give a bit of a state of a play on this issue, and hopefully we can make some progress in our discussion.

So, please, if I can turn over to you to introduce yourself and make a few comments.

>>

Thank you, Madam Chair. This brief statement is made by the United Nations, who has been joined by 40 other intergovernmental organizations. So thank you very much again for giving us an opportunity to address you this afternoon.

At the GAC meeting in Prague, intergovernmental organizations had the opportunity to address the distinguished delegates of the GIC. Today, we wish to convey the concerns of the IGO community relating to potential misleading registrations and use of IGO names and acronyms in the Domain Name System under ICANN's significant expansion in the number of generic top-level domains.

As you know, IGOs have been requesting ICANN to make provisions for appropriate preventive protection for the names and acronyms of IGOs from third-party registrations, both at the top and the second level, for some time. Would he would like to take this opportunity to renew our request.

IGOs are subjects of international law created by states to serve the public interest, and as such, are funded with public money.

Moreover, end users worldwide depend upon the integrity and trust placed in the IGO names and acronyms.

The names and acronyms of IGOs are protected by treaty, including the Paris Convention, international laws of at least 130 countries. Currently, there are some 161 IGOs so recognized under the Paris Convention.

Should the criteria of the GAC establish two-tier protection test be applied, IGO names and acronyms would meet that test.



IGOs have proposed to the GAC a mechanism for achieving such protection which would effectively address our concerns. However, ICANN's current curative mechanisms are inefficient and contrary to the international national protections of IGO names and acronyms and IGO privileges and immunities.

They would also needlessly divert public money provided by the GAC member states to the IGOs from its public purpose.

We believe finding an appropriate solution expeditiously is not only vital to IGOs and the public interest causes which they serve, but is also vital given GAC's policy advisory role.

The GAC's support in this regard is of crucial importance in order for ICANN to grant appropriate and necessary protections for IGOs before any new domains will come online in 2013.

Thank you for your attention, and we look forward to continuing our discussion with representatives of the GAC.

Thank you.

CHAIR DRYDEN:

Many thanks for those comments.

So as you know, we did have a presentation in Prague, and so we have had an opportunity in the GAC to reflect following that presentation on the request that has been made and the various issues at play.

I think the exchanges in Prague perhaps did not allow for a full understanding, general understanding, of some of the issues or



concerns that some GAC members have, but I think we have an opportunity now to clarify some of that.

I do think that we need to be responsive as a committee to this request, certainly more than we have been, and that we need to find something at these meetings that will give them better satisfaction than they have had so far.

So what I would like to do is perhaps invite some of those that have been thinking about possible ways forward -- thank you, I see the U.S. asking for the floor -- to give us some insight into what you might be thinking and what you might be proposing.

We have had, I think, statements of support and restatements of support, but I believe these views are well understood, and we know there is a good degree of support for what the IGOs are asking for.

However, we do need to understand better, I think, some of the issues that some colleagues have around the table.

So United States, if you would, please.

UNITED STATES OF AMERICA: Thank you very much, Madam Chair. And thank you to our colleague for the presentation and the gentle reminder of what is outstanding on our plates as a very high priority of what the GAC was very, very mindful of.

And what I would like to share with colleagues, I have just sent it to GAC members in an e-mail, apologies if it has not yet come through to you,



but we are one of the GAC members who actually has found it very, very difficult to accept the legal basis for the IGO argument that was presented to the GAC in Prague without wanting to rehash old history. But I can tell you that argument is very, very familiar to us and one we have been exposed to in the course of the WIPO II recommendations, and, regrettably, we could not find ourselves able legally to accept that argument.

But because we felt this is such an important issue, we share the concerns of all of our GAC colleagues that the IGOs do deserve protection.

We took it upon ourselves to try to find an alternative that might accomplish the same goal but using a different basis, using a different legal basis.

So we did some research into an existing standard, if you will, exist criteria for eligibility to register for a dot INT domain. That will not be a surprise to anybody. It's in the Applicant Guidebook right now, and the way it's presented now, as I understand it, and I trust my colleagues will correct me if I have this off, it is in the guidebook now as the basis for an IGO to file a legal rights objection.

What we think perhaps would be a more creative use of this criteria is to turn it into an affirmative foundation or basis for protection.

So the criteria -- If you could bear with me, Chair, if I could take a minute just to sort of lay them out. I've sent the document around and I have sent it to our IGO colleagues, so hopefully they are also taking a minute to look at it. And I don't know that we need to resolve this



today, but I think it would be really, really helpful if we could resolve a GAC point of view before the meeting is out so we can reflect that in advice to the ICANN Board.

So to register in the dot INT domain, the applicant must be an intergovernmental organization that meets the requirements found in RFC 1591. In brief, the dot INT domain is used for registering organizations established by international treaties between or among national governments.

So the treaty requirement stands. The treaty must establish the organization, and it must -- the organization -- in other words, I'm going to sound redundant. I'm reading text, so the text is redundant. It is not me just having a slow moment. Apologies.

The organization must be established by the treaty itself, not by a Council decision or something else.

The organization that is established must be widely considered to have independent international legal personality, and must be the subject of and governed by international law.

From our perspective, this is a preexisting set of criteria that both ICANN and the ICANN community are quite familiar with. It is the basis for INT registrations for a positive registration. So again, while we have taken note that the Applicant Guidebook cites it as the basis for a legal rights objection, we think it would be far better to propose that it be turned around into the foundation for affirmative protection.

So I'd like to throw that out as an alternative. I understand we may not be able to resolve it just this afternoon, but I hope it's considered food for thought by colleagues around the table as well as by our IGO colleagues who are observers.

Thank you very much.

CHAIR DRYDEN:

Thank you United States. I do have a follow-up question to you for clarification. We know that there are various perspectives on whether we're talking about current round, future round, top level or second level, so if you could tell us precisely how you intend to meet more pressing needs and how you would apply the use of the dot INT list.

UNITED STATES OF AMERICA: Thank you, and my apologies for not having been more clear.

As it is our understanding that the most pressing issue now is second round -- I mean second level, excuse me, protection at the second level, that is the most urgent pressing issue. So it strikes us that if we can use this for that purpose, then a lot of our shared concerns could be met in the very near term.

Obviously, it also goes without saying, if I may say, do I not have said list in my back pocket, but it does go without saying that we would wish to produce a finite list.

So I have understood from the IGOs that I believe the number they shared with us in Prague was 161. Regrettably, we didn't -- I personally

haven't seen that list. I don't know that it's made the rounds. But in speaking to a few of our IGO colleagues, I have made the suggestion, which I hope you would all concur, I know they do, that it would be very helpful if you could review that list against the dot INT criteria so we can all agree that there is a list that the IGOs accept, that we GAC members accept, are truly linked to this preexisting, very familiar criteria, and we can make, I think, a very sound argument using the criteria and producing a finite list.

As we all know, the strong hesitation on the part of the Board and the community is that somehow we are creating some open-ended mechanism that nobody will know how to manage.

So I think what will behoove us is that we present a package this is tied to existing criteria, very tightly applied, and here's a list of the entities, the IGOs, that actually meet the criteria.

So that's our thinking. I hope that has answered your question.

CHAIR DRYDEN:

It has. Thank you.

If the representative IGOs would like to join us at the table, and then if there are questions, we can turn to you to respond. It's (garbled audio) we need to consider.

But first coming back to the members.



So for many or for most of you, this is the first time you've heard this proposal, but you have initial reactions or questions that you might want to raise, now would be a good time to do that.

I see a request from UAE and Australia.

UNITED ARAB EMIRATES:

Thank you, Chair. I just wanted to comment on the differences -- the difference between the list that probably that was passed by the group, the United Nations, and probably the eligibility of dot INT.

From our perspective, when we analyzed this with the GCC, we came to a conclusion that not all IGOs have probably applied to be protected under the Paris Convention.

Basically the Paris Convention provides a procedure where you can apply for protection for IGOs. There's a process where an IGO have to go through with the World Intellectual Property Organization, WIPO, where they file for a request to be protected under the Paris Convention. I think it's part 6 of Paris Convention. And then there's a period that -- I think a comment period or something like that by the member states where, in 12 months, I think, if there's no objection from member states, then there's a process where they publish the names and all the things that will be protected.

So at least as far as we know, the GCC, for example, the Gulf Cooperative Council, was eligible for dot INT. They are not in the list of the protected IGOs.



So that's just an example of that there might be a difference between the list of IGOs protected under Paris Convention versus whose available for INT.

Thank you.

CHAIR DRYDEN:

Thank you, UAE. I think that illustrates the importance of the comparison of the list that I understand the IGOs and specifically WIPO is willing to undertake.

So I'll continue through the speaking order, and -- yes. And we can explore this further.

So I have Australia, U.K., and Switzerland.

Australia, please.

AUSTRALIA:

Thank you, Chair, and thank you to the U.S. and for the -- U.S. for introducing and UAE for comments.

So one of the comments I was going to make is obviously the question about the difference between the lists, but in terms of the initial reactions, that, to me, sounds like a very sensible and concrete proposal. It seems to have a number of advantages, from what I can tell, as the U.S. has outlined, in that there is already an existing criteria. It's possible to make a defined and limited list which I believe will be something that ICANN would look to very strongly so that we're not opening up a sort of potentially (garbled audio) class of names, which I

think from their point of view would be something that they may be able to resist.

The additional benefit, as I can see it, but there's also a question with it, is that there's already something in the guidebook that acknowledges that being on this list enables you or you're eligible for some sort of protection. It appears that this is actually very useful way past some of the difficulties that have been faced on this end. The IOC/Red Cross, at this stage of the game, how do we get something in the door? And it appears this list has that advantage.

The question, of course, is how can we turn it from being a basis for an objection to something positive? That's the question which we'll need to look at.

But my initial reaction is this looks very positive.

CHAIR DRYDEN:

Thank you, Australia.

U.K. next, please.

UNITED KINGDOM:

Yes, thank you, Chair, and I concur with that. It seems like this is identifying a way forward which draws on what already exists, and that's always -- can be helpful as to actually how you deliver on something that we all endorse with respect to the IGOs.

Now, what will happen next, we could capture this in a GAC statement of some sort, if there's agreement around the table here. We could



refer to it in the communique so the Board is aware, and could be advice to the Board, and, I guess, we have to think about that.

Meanwhile, the GNSO is cracking on with the prospect of a PDP on second-level protection. We could communicate this to the GNSO.

So I guess we could find ourselves actually helping to move this forward very effectively and very rapidly. So I very much appreciate the U.S.'s analysis and presentation here on this.

Thank you.

CHAIR DRYDEN:

Thank you, U.K.

Switzerland, please.

SWITZERLAND:

Thank you very much. And, first of all, thanks to the U.S. for this proposal.

As we have been already in the previous meetings arguing for an appropriate protection for IGOs, I think this is something that is very helpful and deserves a closer look at.

I think one of the key points is that we have clear criteria that are nondiscriminatory, and this criteria for dot INT, I don't have any particular knowledge in detail, but it sounds like they are clear nondiscriminatory, which is something that I think we agree is good. And with regard to this list, I think it's not that important what is on a

list of 161 institutions which is a list which has been set up at a point in time. We have to see that all organizations who fulfill the criteria have the right for protection. I think that should be the start of our thinking, and then we have to create a list of today and see -- and make sure that this is comprehensive, but finite, so that that is also an important point in terms of clarity for applicants and for ICANN to make that job not more complicated as necessary.

I would also, referring to what U.S. has said, I think the top level is less of a problem because it's like 1900 applications, but once you're through with them, you're through with them. The key is the second level, the protection of the second level, because then you have 161 times 1,900 or whatever. So we have to find a way that is manageable for IGOs that are funded by taxpayers money that they have an easy, effective way to go through these -- all these new registries and defend their interests. At the same time, we have to find an effective way for the registries and for ICANN and for us to kind of control this process. So the challenges will lie in how we actually concretely define the protection and the mechanisms and who has to deliver what and whose obligation is what in order to come to something reasonable for the second level.

And I think we made the first step, but more work will be needed, but the first step is already a very promising one.

Thank you.

CHAIR DRYDEN:

Thank you, Switzerland.



I have Portugal, then Germany.

PORTUGAL:

Thank you.

Well, I have some comments to make, but I -- I would like first to hear what the representative of IGOs has to say to this proposal from the United States. And furthermore, I totally concur with what Thomas said.

But first, I have some comments, but I would like to hear what the representative from the IGOs think about this proposal.

Thank you.

INGO BURKHARDT:

Thank you, this is Ingo Burkhardt (phonetic) from the World Bank. I have been with the issue a little bit longer than my colleague at the U.N. so I was chosen now to be on the hot seat.

We just heard about this proposal very recently also. We are very interested in it. We think it's creative, but we can't say we've developed a final position on it in the last 20 minutes or so that we have been confronted with it, but it doesn't seem immediately something that we could not accept or will not accept.

So we're willing to discuss it. We're taking it back to our numbers. We're in a similar process, I think, as you all are right now.

CHAIR DRYDEN: Thank you for those comments.

Portugal, did you have more to add or was that -- Okay.

Thank you.

So Germany, please.

GERMANY: I also want to thank the United States for this proposal. I think it's valuable to forward the discussion on this issue, which also, from a political perspective, is quite important. And I just want to share the -- my understanding and my notion in discussing with other colleagues that the lack of coming to a consensus position on this issue was not only giving, let's say, bad light to ICANN -- to the GAC, but also to the ICANN model. Because in public or in international organization, there may be not such a differentiated point of view, and many of the colleagues, they think it is ICANN that doesn't manage to come to a, let's say, reasonable or sensitive solution for this -- sensible solution for this issue. And, therefore, I welcome it.

Having said that, we sure have to check this proposal at home in our capitals and see how far we can support it.

Thank you.

CHAIR DRYDEN: Thank you very much.

Sweden, please.



SWEDEN:

Thank you very much, Chair. And I also will say thank you so much for being able to listen to a view from different IGOs. And also, thank you very much, U.S., with coming with a contribution to solve this issue.

But I also would like to concur with Switzerland that it's different to actually find some kind of protection or strategy or guideline in theory, but then it also has to be manageable, actually, practically. And that is something we have to bear in mind in coming to talk about the second level, for instance. It's going to be a huge amount of top-level domains, and so on, so it has to be manageable. So that is something we just have to bear in mind.

Thank you.

CHAIR DRYDEN:

Thank you, Sweden.

So at this point, then, I think we can go back and reflect on the proposal.

Portugal.

PORTUGAL:

Sorry, just wondering one thing. I'm not sure whether United States said that this is for the IGOs that are already dot INT, or that can -- okay. Thank you.



CHAIR DRYDEN:

Okay. So with that, we have a proposal on a possible way forward, and I would invite colleagues to consider this proposal as a possible way forward in order to address these pressing concerns. I think it will be a good success for this committee if we are able to accept this and compromise a little bit in some areas, but it will be a good success for us. So I am inviting you to please find some flexibility. And I am assured that the IGOs will also be looking closely at the proposal and making comparisons between the two lists so that we understand more fully the implications and the considerations associated with that.

And we thank you for agreeing to undertake that effort.

So....

So let's conclude on this item for now, and let's consider what we may be able to agree or communicate as part of our usual process with the communique and so on this week.

And let's find something that we can conclude on.

Okay.

So thank you again to the IGOs. And thank you to the Secretary-General's office for providing us with a further briefing. Okay.

All right. So let's just continue through our agenda.

Next I have still, of course, related to new gTLDs, I have the matter of trademark clearinghouse, and also something that has disappeared from the agenda, but uniform rapid suspension mechanisms.



There were reports on these items circulated about a week or two ago where ICANN provided an update or a report to the GAC about the status of these mechanisms, and they will be in your briefing books. They are available to you in hard copy, and you may refer to those documents. But I will look to the United States, who I believe is the lead on these issues. Is that correct?

Is it U.K.?

UNITED KINGDOM:

Thanks, Chair. I'm happy to kick off. But maybe U.S. and other colleagues may want to join in.

Yes, indeed, we've had updating materials on the establishment of the trademark clearinghouse. If you recall, this is the kind of central database which every new gTLD operator will be required to use in order to conduct the trademark's claims and sunrise processes. So it's a critical part of the infrastructure, if you like, of rights protection.

The provider of this service has been chosen. It's going to be operated as a required third party under license agreement with ICANN. That's Deloitte's IBM CHIP, if I remember right, C-H-I-P. And progress seems to be pretty good with setting this up. My impression is that, following the testing and phase build out of the clearinghouse, which was undertaken over the summer period, things were going well. And they should be -- ICANN should be on target to invite trademark owners to populate the database of the clearinghouse. But I don't really know that they're ready to do that. I haven't seen any announcement that the contract's all been awarded, everything's been -- the Ts have been crossed. The Is



have been dotted. I haven't seen actually any announcement about that. There may be something going on during this meeting. I don't know. Maybe colleagues know more as to the exact current state of play. I know the CEO has taken a very close interest in this, as I was saying earlier, as a critical part of the infrastructure of rights protection. So, whether there are further discussions, last-minute discussions going on, I don't know. But that's, basically, my understanding of the situation. And maybe colleagues might want to add to that if they have any more information in addition to what we've got and to what I've just said. Thank you.

CHAIR DRYDEN:

Thank you for introducing the topic, U.K. I have EU Commission, please.

EUROPEAN COMMISSION:

Thank you very much, chair, I will also introduce myself. Good afternoon, everyone. I'm Linda Corugedo Steneberg from the European Commission with just a couple points to start off.

Do we have a precise timeline and when will we see a final draft plan that will be useful, I think, for our continued discussions. And we would also like a clarification concerning the protection of geographical indications why the TMCH because this is a very important issue, as you know, for many European countries. So those were the two first points I wanted to make. Thank you.



CHAIR DRYDEN: Thank you, EU Commission. Is there a response or clarification that can be made at this point? Okay.

Are there other comments on this issue? None. Okay.

Sweden, did you want to add --

SWEDEN: Just a quick question. Of course, timelines and everything that is -- I echo what the European Commission is saying. That's important to know. But it also -- I got a question from one of my colleagues in capitol. And the question around the trademark clearinghouse is also whether it contains, not only trademarks, but is it company names or where is the limit around this concept? That is a question. Maybe I missed the answer, and maybe we got it before. But I don't know. Anyway, thank you.

CHAIR DRYDEN: Thank you. Is anyone able to address that question? No.

Okay.

That's fine. We'll take note of that question as well. And Germany, please.

GERMANY: Yes, thank you, Madam Chair.



Just an issue. Maybe we can exchange this issue, which is also very important for us, with the board. We have a meeting with the board normally on Tuesday. Or it could be also considered, if we find an additional time slot, which is almost impossible, I see. But maybe where we could get some presentation from ICANN on this issue what is the current situation? Because, frankly, I'm a bit mixed up. And there have been so many information on this that I'm not sure whether I am -- have the last position. And it might be helpful if we had some exchange with the board on this. That's my proposal. Thank you.

CHAIR DRYDEN:

Thank you very much for that suggestion. That makes good sense.

So we will try to identify a time for a briefing. And, if that's not possible, then this seems like good fodder for raising with the board about the nature of preparations and certainly questions about a timeline or operational readiness and so on. The board should be prepared to engage with us. I see requests from Pakistan and the United States, please.

PAKISTAN:

Regarding the clearinghouse, there are two providers which are recommended by the community. One provider is for the database administration, and the second is data verifications. Because they are the two entities who are dealing with the database administration and data verification, my concern is about the inter-dependence between these service providers who provide the database administration and then another is data verification.

In case of -- in case of any contention, in case of any conflicts between these service providers, how these conflicts will be resolved. Because it's very important these stakeholders and their inter-dependence. So the inter-dependence is required, explanation is required.

CHAIR DRYDEN: Thank you for that question, Pakistan.

So next I have United States.

UNITED STATES OF AMERICA: Thank you, Madam Chair.

I just wanted to concur with expressions of support from colleagues. Earlier I believe it was Hubert who specifically suggested we should take this up with the board during our Tuesday afternoon exchange I think to highlight some of these outstanding questions that we're surfacing. But also as a reminder, frankly, that you cannot introduce new gTLDs -- they cannot start the delegation process without these two RPMs being up and running the way they are supposed to. Otherwise it's -- well, they cannot work. And I do think that's important for us to reinforce.

Just to sort of flag for people, I did send -- probably half of you were traveling, so apologies. I think last week I circulated some additional documentation, one of which was a letter that NTIA, in fact, just recently sent to ICANN that cited a number of issues. But we specifically drew attention to the trademark clearinghouse and the URS as outstanding problems that absolutely needed to be resolved. So I think it would be helpful if the GAC as the GAC can also kind of reinforce that.

It's always useful for them just to understand the priority that we attach to the resolution of this. We've been talking about this for quite some time, and it has to be resolved to the user's satisfaction, frankly. That remains a question mark. I don't think the brand owners have signed off saying great, this is great. It worked for me. So I really do think we the GAC have long sort of fulfilled that role of making sure that the concerns from the IP community and IP interests are, in fact, properly taken into account. Thank you.

CHAIR DRYDEN: Thank you, United States. U.K.?

UNITED KINGDOM: Thanks, yes, I did mention the situation with the URS, which is, indeed, a bit more unclear. And progress seems to have been slow, to say the least. As I understand it, there's going to be a further teleconference happening on the 23rd, something like that, if I understood -- remember correctly.

Anyway, I think what I would say to colleagues here is that they keep close to their intellectual property experts. There are agencies, authorities, or ministries that deal with these issues both with regard to establishing the trademark clearinghouse and progress with establishing the URS because, as colleagues have said, these are critical. If they fail, the whole gTLDs initiative is severely impacted, to say the least.

So what we've been doing in the U.K. is keeping close to our intellectual property office. We've been sending information out to a consultation

group we have with brand owners and getting feedback and reactions from them. And I urge colleagues around this table to do likewise. Some are doing that. Those who aren't really focused on this, really urge you to do so in concert with your IP experts. Thank you.

CHAIR DRYDEN:

Thank you very much, U.K. Okay. I think we can conclude on this item for the time being and continue through our agenda items.

So next we have the issue of root zone scaling on the assumption that there could be items to discuss on this topic. I note that we do have a response from the board. It contained -- in the report that we just received to the Prague communique. So there is a response there.

I'm looking around. I believe the Netherlands is the lead on this or has certainly been one of the more interested members, but I don't see them at the meeting presently.

So perhaps we can take this item as based on a need to consider and reflect on what the board has responded with before we can identify any further issues that we may wish to identify or comment on.

Okay. I have the sense that that would be acceptable. Okay. So let's continue through the list.

In terms of increasing uptake from developing countries, Kenya has the lead on that topic. Would you like to introduce a discussion or give us a bit of a status update?

KENYA:

Thank you, Chair. Update the last communique the GAC provided advice asking the board to review and plan action for the next round to ensure the participation and reputation from the uptake. From the board's response to the communique dated (indiscernible) 10th of October, they say that they're going to be seeking to increase participation in the next round, seeking input from the community from potential new applicants and the community. But I've also gone further and developed or established an African strategy working group that is looking at participation of the Africa region, I believe Latin America as well and other regions. So I think that's quite a good beginning. I'm going to give a presentation on that tomorrow, and later on I can give a brief on how far that is going. Yeah. Thank you. That's all I have.

CHAIR DRYDEN:

Thank you, Alice. I think finding out more about the Africa strategy and how it relates to this issue would be of interest. So thank you.

Are there any comments on this item before we continue on? No? Okay.

All right. So the next item in the list is concerning the IOC and Red Cross issue. And we had two topic leads here. We had the U.K. and United States on this issue. And I understand there are some issues related to procedure that has been undertaken in treating the advice that the GAC has provided. The GAC has provided advice on these protections, and now the -- this advice is under consideration by the board. And this may be something that we want to discuss. My advice -- yes, United States, please.



UNITED STATES OF AMERICA: Thank you, Madam Chair. I will certainly welcome any additional comments that my colleague from the U.K. may be able to contribute. There's been a recent -- I believe we have it in our document -- there's been a recent sort of board resolution that I think goes very much in the right direction. Just a personal observation. I wish it had gone a little further in the right direction, but it's certainly in the right direction -- that, basically, acknowledged the GAC's advice forward, that it had dealt with GAC advice for protection at the top level. It was now seeking to address the second part of the GAC advice, which is to seek protection at the second level for the IOC Red Cross/Red Crescent names. And I don't have it in front of me. So apologies. I'm going to paraphrase. It largely sort of sends a signal in recognition of the ongoing work within the GNSO. I read the resolution as sending a signal to the GNSO that we acknowledge your work effort. But you should be aware, GNSO, that we, the board, intend to direct staff to issue a moratorium that there would be no registration of IOC Red Cross at the second level. And that moratorium would go into effect in January 2013, which should be well in advance of any delegation of new gTLDs.

So that, to me, is the good news that the board signaled that it actually had concurred with the rationale for the GAC's advice.

And, in that regard, I would draw your attention to the unredacted version of the staff briefing paper prepared for the board in June 2011 when they took their first decision. The unredacted version of the briefing paper revealed that ICANN consulted with outside legal counsel who did seem to agree that the GAC's legal advice was sound, was



correct, that these two entities are unique and they are the only two entities who seem to meet the two criterias that we advanced. I would draw your attention to that. That is at least my reading of the unredacted version of the staff briefing paper. So in terms of good news, I do think this is positive. There is a date positive. The board is certainly signaling their intention.

There is other good news, I believe as well, very recently. And, again, I don't have the dates. My apologies. With all the paper I'm traveling with, you would think I would have these things handy. But -- the GNSO drafting team on the IOC Red Cross has very recently posted a recommendation for public comment. And I think their deadline is November 9. And it's an option for us to consider whether we wish to comment or not. We would have to work on that intercessionally, I believe.

But the GNSO draft recommendation, if I am correct, proposes that they would accept the moratorium pending the results of a -- an ultimate -- the ultimate results of a PDP. So, as you can imagine, I've kind of gone off on PDPs before. And none of you will be surprised that I have a certain hesitation as to that outcome, because it is entirely possible that the results of a PDP might, in fact, come to a completely contrary conclusion than the GAC's advice.

And, quite candidly, I don't know where we will be at that point in time; but that is not going to be a very comfortable place. So that is my only hesitation. But, on the whole, that's generally good news. I'm just concerned about a potential problem down the road. And so I won't belabor this point now. But at some point, maybe in the context of our



BGRI discussions -- kind of goes to some of my comments earlier today -
- these are some of the challenges, I think, facing the GAC and that we
need to tackle in terms of how we engage not only with the GNSO but
with the board. And it may well be that we can refine the approach we
adopt to how we phrase our advice. And we may find that we can be a
little more clear as to not only just delivering advice but perhaps
recommending how it could be implemented. And that might narrow
the window for other opportunities that there could be a PDP that
would come up with wholly contrary advice, which I don't think would
be comfortable for any of us. So I just throw that out. And, Mark,
certainly welcome if you'd like to complement that. Or, if you need to
correct me, please do.

CHAIR DRYDEN:

Thank you, United States, U.K., did you want to add?

UNITED KINGDOM:

Well, thank you, yes, Chair. I certainly don't have any corrections to
make. You gave a very accurate account of the status, at this time as I
understand it as well.

And I hope, actually, as the GAC, we can put on record perhaps in a
communique, a statement of support for the moratorium. Because I
think this will be of great assistance to these two organizations. During
the Olympics period this summer, I know the IOC had to deal with up to
a thousand cybersquatting cases a week when they had enormous work
load in terms of taking down Web sites that were claiming to carry
Olympics coverage, promoting and pixelating materials, all illicit signs.



So the scale of this is quite something. Massive. I can't overemphasize that.

And, of course, we all well know the situation with the Red Cross constantly having to deal with fraudulent activity claiming to be helping with disaster relief and so on, which is just -- you know, it's rampant fraud, which is exploited by those who are abusing the system. So just a reminder of what we're trying to tackle here.

So a moratorium serves to protect these names during the period of policy development process. If you don't provide that protection, then the PDP decides there should be protection. You can't really realistically take down all those domains that have been created, all those Web sites, so on. It's very difficult to remedy the situation retroactively. So that's the value of a moratorium. So I hope colleagues will recognize the value of that as a practical and sensible way forward. And, hopefully, we can endorse that in the communique. Yeah. So thanks. That's pretty much what I wanted to say. Thank you

CHAIR DRYDEN:

Thank you very much, U.K.

So we have a hard copy in your briefing book of the drafting team recommendation report, and we've projected a copy of the board resolution related to this. And I think those are the two main documents related to this.

And, if I understand correctly, United States, you are proposing that this be a case that is looked at perhaps by the BGRI because of the issues it



raises in terms of the process and the referral to the GNSO and so on and so forth. And then -- and is that the main proposal that you're making for next steps? Is there something additional that we need to contemplate?

UNITED STATES OF AMERICA: Thank you, Madam Chair. Sorry to take the mic again. What I would probably do is try to take some ideas that I would share with GAC colleagues in the BGRI process as a learning point. To me it has been a learning experience. And I think it has kind of highlighted some of the potential disconnects that I think we would always live with because of the current structures. It's just -- these are simply built in. And it might help us illuminate ways to hit a pause button earlier on in our respective processes, whether it's the board process or GNSO. So I just throw that out. If there are other case studies that people would find more workable, I'm completely open. I have just often found that, instead of speaking hypothetically, it is sometimes useful when we offer an actual case study and can sort of use that to point to and here's where this line of communication didn't seem to work very well. Here's where we seem to be operating at cross purposes. So this is my proposal here. Not for action today necessarily, but just to get ideas out for next steps in the BGRI.

I completely agree with Mark. I do believe our communicate needs to be pretty firm on this. We do support the moratorium. I will try to work on language that is diplomatically phrased but that somehow raises some concern and some hesitation should the PDP ultimately yield a result that is completely inconsistent. Because I do not know what we



do then. So I do think it's important pending agreement from colleagues around the table that we send that signal. I think that's pretty important for us, thank you.

CHAIR DRYDEN:

Thank you. So something for colleagues to consider in light of the advice that we have already provided on this issue.

Okay. So this is the agenda in relation to gTLDs that we had anticipated for this afternoon. So at this time, I don't know whether the W -- ah, Germany, please. Yeah.

GERMANY:

Thank you, Chair. I have a question of point of order how we proceed with the gTLD process. Because I think the time now is running short. And we -- tomorrow is the high-level meeting. On Tuesday we have interaction with other constituencies. And Wednesday time we need for drafting our communique. And I think it is necessary that we find some time, and I think it will be -- it will be made enough time for having an exchange on gTLD issues because of a discussion we had this morning and the afternoon. There are quite a lot of questions that are - - remain unsolved. And, at least for coming to a common understanding for the communique, it would be helpful to save at least two hours, three hours for discussion on these issues. Thank you.

CHAIR DRYDEN:

Thank you, Germany. I think you're quite right. So, clearly, it's not realistic to identify time today or Monday as I know many are



implicated in the preparations for the high-level meeting. So I'm reluctant to schedule time now.

But what I will do is look at the schedule for Tuesday perhaps or if colleagues have other suggestions about where we might put in additional time. Clearly, we are going to need to reconvene. And, again, look at the issues. And I gather you're referring to our discussion about early warning and some of the questions that came out of that. So, if you'll leave it with me, I will be happy to look at that again and report back with some proposals about how we may meet and what the issues are that are on the table and then how we can move forward from there, hopefully, before we get to the point of drafting our communique. All right.

So, if that is acceptable, then we can move to the last item.

So we received a request from a GAC member that a WHO be able to brief the GAC about some concerns they have in relation to the applications for new gTLDs. So this is their opportunity -- ah, yes, I see a colleague from the WHO. So with that, I will turn over to you. And, if you could take a few minutes, please.

W.H.O.:

Thanks very much for the opportunity to present our views to the GAC. World Health Organization is the overarching intergovernmental authority for global public health. WHO is here to make the case for you to issue early warnings on dot health.



The Internet has become a global asset for health. It's critical to health security, for example, to mitigate disasters or respond to disease outbreaks. It is essential to medical education and to research communities. It can empower people by giving them access to the information they need to lead healthier lives. It has become fundamental to the delivery of health services and the reform of health systems in all of our countries.

We have to strike a balance between realizing the potential of the Internet for health while also protecting people and ensuring that everyone benefits. This is the public interest with respect to dot health and this is why it is of utmost importance to protect and foster the potential of the domain. If the introduction of the dot health domain is managed well, the whole of society will benefit, the public. People want reliable information and assurance that their privacy is protected and transactions are secure.

Those in the marketplace, for example, providing health services and products want a level playing field in a secure platform for competition and innovation and governments, of course, who are responsible for the health and welfare of their citizens.

This can only happen if there's trust. To establish trust and serve the public interest, a number of key areas need to be addressed. The first is privacy. Especially for health, we need effective rules governing privacy and confidentiality in the online environment.

The second is security. Preventing scams, fraud, and crime is in everyone's interest, particularly in health.

The third is transparency. This enables consumer choice and confidence by ensuring disclosure about the entities behind Web sites and business practices.

We can't forget what is ultimately most important. It's the health and well-being of people.

Earlier this year WHO asked ICANN to postpone the attribution of dot health in all the U.N. languages. We argued that it should not be attributed until a broad-based consultation of the health community, including the public and private sectors and civil society, had taken place and the rights, rules, and responsibilities for the operation of the domain had been elaborated. Letters to the GAC and public comments on the ICANN site have supported this request.

In January 2013 WHO's executive board, that is 34 governments representing the 194 member states of the World Health Organization, the governments you represent here at the GAC, will formally address this matter and its potential impact on global health. In parallel, a multistakeholder consultation will be conducted by the W.H.O. Secretariat.

Rather than allowing dot health to be sold to the highest bidder, we ask you today to issue early warnings on the health applications and to consider issuing GAC advice in the coming months. This would allow time for sufficient consultation with the ministries of health of all our governments on an appropriate governance model for dot health. Taking the time to do this is critical to assure that the dot health domain can benefit the global community for the years to come. We thank the



GAC for your serious consideration of this matter and I'd be happy to respond to any questions. Thank you.

CHAIR DRYDEN: Thank you. Are there any questions or comments. Italy, please.

ITALY: Yes, thank you for this presentation. We fully agree the motivation of this. I would like to ask, have you any idea already how to ensure also all these characteristics in the policy for accepting second-level domains because this is not something that is referring perhaps to this case of dot health but maybe also for other cases because this reminds to me some discussion we had in the past concerning the so-called sponsored domains where there is specific criteria to accept the registrants. So can you say something about that?

W.H.O.: Yes, I would be happy to. You're very right, that was part of the sponsor discussion from some time ago, and I should just point out to everybody that there are numerous codes of conduct for health-related domains and the problem is that -- and they share basic components, but the problem is that they can't be enforced and so -- so the idea along this would be to harmonize those along their common -- their common areas. But all of this quality assurance is a process that has to be built into the registry from the start, that has to be understood that that's going to be part of the -- the branding of the name and the value of the name going forward. I hope that answered your question.

CHAIR DRYDEN: Thank you. I have Australia, please.

AUSTRALIA: Thank you, Chair, and thank you for the very useful presentation. I just have a question. There are a number of health-related strings which have been applied for in this first round, so you've mentioned the dot health ones obviously, but there are a number of more specific ones related to sort of subsectors of the health industry, for want of a better way. So dot doctor being an example. There's a number of related to dental -- dentists -- dental. I'm just wondering if the World Health Organization has a view on those applications as well.

W.H.O.: We're remaining neutral on the topic and as you're evaluating your names, the question really to ask is, are the policies consistent with the mission of the name, are the protections that are proposed sufficient to protect, and then related to the discussion that's been had, that you've had over the past couple of days here at the GAC, what are the guarantees that everything under question 18 is actually going to be able to be assured in the contract. And who would be accountable for that? How would that be monitored? I think those are some very important questions with -- in relation to the 16 health-related names.

CHAIR DRYDEN: Thank you. Next I have EU Commission, please. EU Commission.



EUROPEAN COMMISSION: Thank you very much. Well, actually it's a similar question to the one that Australia already asked and that's where do you really want to draw the line because there is also, of course, health care, health clinic. Some of our colleagues in the Commission have been looking at those and also saying that we need to be attentive in these cases as well. But I would like to hear your view.

W.H.O.: Yeah, thank you very much. This comes back to the questions that we were talking about this morning when the UAE, for example, said that they were interpreting some of the names in the interest of their own governments and how that would reflect. I think where it's important to just specify W.H.O. is drawing the line at dot health. And part of the reason is we have -- we have 16, a few more names now if you count the brands. But in the next round there could be hundreds of names. And so the question for us is where -- what is really a global asset? We feel that it is dot health and that that name, for global public health, makes quite a lot of sense.

CHAIR DRYDEN: Thank you. U.K., please.

UNITED KINGDOM: Thanks very much. And thanks very much to the W.H.O. coming to talk to us as I thought would be a valuable opportunity just to hear from this I.G.O. and its views on these particular kinds of top-level domain



applications. We've consulted with our Department of Health, our ministry, and with our national health service commissioning board and they have certainly expressed strong anxieties that -- that there be assurance that if a dot health domain is delegated and similar healthcare, health or dot doctor, that kind of thing, that they be subject to strong governance and that is really our starting point in the interest of protecting the public, promoting effective healthcare, advice, guidance, and so on, and ensuring that the standing and reputation of the medical profession is not undermined in any way. So I sense -- and I'm sure many other colleagues here would agree -- I sense we have a kind of shared ambition here.

So my question to the W.H.O. is whether, in fact, as an alternative to going down in their early warning route we try and capture this sense of strong governance of these domains in some message or advice to the Board as an alternative to going down early warning paths. How does W.H.O. feel about that? Thank you.

W.H.O.:

We're -- we're actually wondering how in practical terms that could actually be achieved. If -- if that would be a viable alternative. There are a lot of names. There are likely to be a lot more. Dot vaccine, dot polio, things that are related. Maybe you have a suggestion in that regard, but just practically speaking, it could be very difficult to achieve that at any kind of scale.

CHAIR DRYDEN:

Thank you.



W.H.O.: Oh, I'm sorry. I do want to just remind the GAC that W.H.O. did say we are very concerned about the names. We had hoped very much to have minimum quality criteria for those names. The difficulty, really, will be in the implementation. There's so very many of these names.

CHAIR DRYDEN: Thank you very much for that briefing. Germany, please.

GERMANY: Yes, thank you. I think we have this kind of, let's say, regulated industries discussions in various forms here. And I think we need to really further reflect this issue. And on the other hand, I just want to highlight that we have in our past discussions with the Board and in designing this system, we have several possibilities where even after delegation there are -- there's the results of the delegations can be -- yes, checked and seen whether there are some developments that are not in line with service of politics we saw and followed. And there would be also, after delegations there are certain possibilities where we can say this TLD has, yes, directions that we do not share and it is misuse of -- yes, it's some kind of misuse in that and we want either to change the policies, the registration policies, or in a worse case we have also -- at least ICANN has at least also the possibility to withdraw an application if it is really going far beyond any regulations that were -- or ideas that were originally behind this idea. In particular if it is infringing on laws and that could be also in the question of -- to health-related issues that this may be the case. And it's -- my question is, can you also



mention that we come to discussion now where we say okay, we advise ICANN in a very general way that these TLDs need some additional consideration and so should be elected very carefully but not delivering specific criteria because I can understand it will be difficult for us to develop those kind of criteria until our next conference in Beijing because we need to be -- we have a clear understanding and a common understanding here within the GAC. As you know, we are deciding on a consensus basis and from my point of view it will be very, very difficult to develop. And maybe also for other TLDs, this might be a solution where we say okay, let's get started. We raise our fee -- we raise our finger and say beware of using this strings and relying on, let's say, after delegation process where we can, if it falls necessary, react. That's an approach we may discuss and we may go forward. And I also would like to hear the position of other colleagues here and not only from W.T.O.

CHAIR DRYDEN:

Thank you very much, Germany. I think that is a good place to conclude on those discussions. We have, as I mentioned earlier, further work to do this week in regard to the plans and procedures regarding early warning and setting deadlines and these sorts of things. So that will be our next area of focus, I think. And in relation to that I will endeavor to find additional time in our agenda, and that will be communicated by the GAC e-mail list, to discuss those issues. And one thing that remains is I understand Kenya would like to make an announcement for her colleagues, is that right, for a meeting to take place.



KENYA: Thank you, Heather. I'm just asking my African colleagues, the African Union Commission would like us to stay behind to discuss the high-level meeting tomorrow. So please, stay behind, all African GAC members. Thank you.

CHAIR DRYDEN: Okay. So thank you, everyone, and -- (audio problem). One more housekeeping request. Because tomorrow's high-level meeting will be held in this room, if everybody could take their belongings, binders, papers, everything with them so that we can clear the room for tomorrow, that would be very much appreciated. So okay. With that, see you on Tuesday. Have a good evening, everyone, and we'll have the high-level meeting tomorrow. So thank you.

>> And I would like to say happy birthday to Heather, who -- it's her birthday today. Happy birthday, Heather. She's still only 25.

CHAIR DRYDEN: Thank you very much.

