
BUENOS AIRES – GAC Plenary 4
Sunday, November 17, 2013 – 09:00 to 10:30
ICANN – Buenos Aires, Argentina

CHAIR DRYDEN: Good morning, everyone. If you could begin to take your seats, please.

Okay, we do need to begin. If you could take your seats, please.
Colleagues, we do need to begin.

So thank you, good morning, everyone. We do need to get started. We have another busy day ahead of us. So we have a few sessions today in the GAC, starting with some sort of exchange related to the strings that have been applied for, win and vin.

And then, after the coffee break, we have opportunity to talk more about the working groups that are under way, finish receiving updates, and make sure we have clarity on next steps related to those working groups so that we can take the work forward.

And then after lunch we will have further discussion on some remaining issues from the module 3.1 advice that the GAC has given, which includes safeguards and, specifically, category 1 and category 2 as identified by the board in their scorecarding exercise related to the GAC's advice.

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And then there are three strings where we have also identified that they will be on the agenda for the meetings here.

And then, following that, we have a joint meeting of the GNSO. And then, at the end of the day, we have a joint meeting with the NGPC in order to come to a better understanding about what is being proposed by the board NGPC on category 1 and 2. And then there may be other issues as well that may be identified to include in that agenda.

So okay. So let's begin then.

So we have scheduled this first hour for some sort of discussion on wine and vin. There's been a bit of back and forth about this -- not great communication, but back and forth about this -- and various requests for what we might look at or discuss in relation to this. So we do have some flexibility, in one sense, about that. And I note we do have the community here; so we can broaden our discussions, if this is going to help us move forward.

And I really want to emphasize the importance of moving forward on this issue. And, just to recap, this is an area related to geographical indications where the GAC's effort was to come to consensus agreement on safeguard advice. And this was not possible.

And so there was a record of decision communicated by me on behalf of the GAC to the board confirming that no consensus is possible on safeguard advice related to geographical indications for dot wine and dot vin.

This inability to come to consensus is the result of there being opposing views in this committee. And so, with that, we cannot reopen this issue.

In addition, when the record of decision was communicated to the board, there was a reference in that letter to, perhaps, the need for some GAC members or for further clarification around why it's not possible to come to agreement on safeguard text for wine and vin.

There have been comments and communications about other aspects of the issue or about the GAC and so on. But I do want to be very clear about what was the exercise that the GAC had undertaken and why it is that we did not come to consensus on that particular point.

So we do need to move forward, and I am really wanting to keep the exchanges constructive on this. We have had some difficult discussions given the degree of importance that colleagues place on these issues and as well the implications for this, because geographical indications are really a sensitive matter and one that

relates to market access issues and so on and so forth. We need not be surprised that this has been a challenging effort.

And I think, when this first came up in Beijing, there was really poor understanding in this committee, because we do not have the experts here, about just how complex an issue this would turn out to be as well as being very much a political issue at the same time.

So okay. So there we are. So at this point I will open up the floor from colleagues, if there is something that colleagues would like to comment on. EU Commission, please.

EUROPEAN COMMISSION: Thank you. Thank you for giving me the word at the beginning. First of all, I would like to excuse the European group for holding up this room for everyone. We were given this room as a room for our internal communications before we meet; because you know that the European Union is not acting as one normally in all national foras, including, of course, then, the GAC. So we need that type of coordination before. Fortunately, Jeannie has been very helpful to find a room for us; but it happens to be the same room as GAC is meeting later on. I just wanted to make that point because it's important for us to not make you feel that you are excluded from everything what we discuss.

Okay. Just on the matter as such, then, so I think it is -- it is worth mentioning that the European Commission -- and I think also I have to underline that all the 28 EU member states expressed our concern on the procedural matters in relation to this in a letter that was sent from Linda Coregudo Steneberg immediately after Heather addressed the letter to Steve Crocker, the one that has been circulated more widely.

Now, that letter has also been shared with the GAC members. And I'm convinced that the majority of the GAC members have been able to read and possibly also agrees to what it says in terms of procedures.

Now, we also mentioned the same procedural problems that we have with what happened in a letter from Commissioner Nellie Kroes to the ICANN on the 7th of November which has been broadly circulated. From that point of view matter, I don't think we need to raise the procedural matters much further in this forum, just saying instead that we would like to be constructive and move forward on these matters.

For us what had happened is, I think, a concern that we could continue to work within the group on working methods. I think it also needs seriously discussion around how we can improve the operating principles of GAC. I think there is, if you read that seriously and very closely the way that we have done, I think

there's a number of contradicting elements in the GAC operating principles, which I think is -- would be interesting to address together at a later stage.

I think also -- and this is something that is expressed from all 28 member states again -- I think that what happened should not set a precedence for the future work. So let's be constructive. Let's try to together have a look at what we can improve, what can become more clear so that the rules and provisions that we have to work on are more clear for the future work, so there's no room for confusion any more.

Now, if I go into the -- more into the substance of dot wine and vin, we, of course, also welcome the fact that after the letter from Heather, the NGPC on the 28th of October opened up the discussion to -- in the larger context. So, first of all, they asked us GAC members to send out considerations so they can take out any form of decision at the end of the day.

We also think it is very useful that the discussion has been brought up to the larger constituency. So both -- of course, everybody that is interested in this question.

I can tell you on the European side the interest is very far reaching. From small producers of wine in districts where people survive on their work, on their life, to more important economic

and political issues in some of our member states where these geographical indications is essential to protect.

I -- I also think that what I'm saying now is, of course, expressed in the letter of Nellie Kroes on the 7th of November. So I would, actually, like also the constituencies to have a look at that. It also very well explains the magnitude of this issue, not only in terms of the legal matter around geographic indications, but both the economic importance for the European Union, for the districts called Bordeaux, Rioja, Chianti, Mosel, et cetera, et cetera. These are essential things for them to be able to protect. The direct communications for these districts are a matter of assets. It's something that is very much equal to trademarks. If you want, we can dwell more on that later on. But -- and I think we have enough experts on the European side with us today to be able to give you all the information that anyone around the table would need on the importance of geographic indications for us. I think also, it's where -- it's worth mentioning that this is extremely sensitive, as I said. And what is happening here today has an impact on our assessment on how ICANN is capable of taking into consideration essential public policy concerns from all GAC members. And I am, of course, again happy to share any other considerations around this with you.

How are we -- how do we want to deal with this matter now at this stage? You know -- and probably some of you heard that there are ongoing negotiations between the wine governing bodies and the applicants. And they have been sitting down. And they've been negotiating, and they've started up negotiations. I expect that all GAC members support those negotiations in the good way that we are established in ICANN. This is, actually, a very pragmatic and very practical way for us to resolve this matter within the larger constituency within ICANN. And it's, for us, a way of -- and a way of seeing, actually, that ICANN's multistakeholder approach to governing and to taking decisions will actually function in the end of the day.

So I would very much stress that I hope that everybody around this table can actually support and that GAC as such can support these negotiations.

Madam Chair, I think it's worth saying that, of course, we insist that there is real and true legal provision enshrined in national law in geographical indications, including the WTO TRIPS agreement. I can also have a long list of other agreements that exist on this.

The same time I would agree with anyone, particularly, of course, the United States, that ICANN is not the place where we will resolve this issue. That's why we are going to be -- try to be

pragmatic and actually allow other parts of the constituencies under ICANN to try to resolve the issue for us.

So that is what we are suggesting is that we will have a possibility for us here today to agree so that we have a certain amount of text on this.

I know that you, Madam Chair, has been willing to help us and help us and allow us to work on this and to be instrumental to find a solution for a reasonable text on this matter now in the communique of Buenos Aires. I thank you very much for the word. I'm pretty sure that any other of the European group would like also to fill in on this. But thank you for being cooperative on this matter which, for us, is really essential. Thank you.

CHAIR DRYDEN:

Thank you, EU Commission. Australia, please.

AUSTRALIA:

Thank you, Madam Chair. And thank you, to the delegate from the European Commission. We listened to your preamble with great interest.

There are a couple of points. The EUC suggested that the GAC would agree with the EUC correspondence on procedure. I'd like

to note that Australia does not agree with that. We believe that proper procedure has been followed.

There is a suggestion that all GAC members would support the negotiations that have been undertaken by European geographic authorities. Australia does not have visibility of these negotiations and is greatly concerned by them.

We were equally concerned by the letter from the vice president of the EU, which made various representations about protections of GIs in Australia that fundamentally said they did not exist, that we made use of trademarks protection only.

With respect, I would say, the letter demonstrates a misunderstanding of Australia's international interests in one GIs. Domestically, Australia does have a very generous system for the protection of wine GIs. And Australian wine producers hold over 100 wine GIs with several of these internationally recognized.

Wine is Australia's 6th largest agricultural export; therefore, we also have an interest in ensuring that wine GIs are respected globally.

Depending on the market, Australian wine producers may make use of trademark laws to protect their products. And this is necessary because not all countries recognize GIs under very generous legislation.

Which brings us to the real issue. International consensus on protection of GIs is not settled and is not for this forum to decide. And, in this instance, we believe that existing safeguards agreed by GAC in Beijing are sufficient and appropriate.

I would go back to the vice president's letter where she said Australia's position was not clear, and then she speculates on where we are coming from.

We found this interesting because we had made a statement in Beijing. We had written to the GAC between Beijing and Durban. We had reiterated the Australian position seemingly endlessly in that endless night of discussion in Durban, and we repeated ourselves following Durban.

So, accordingly, I have been asked by my government to read a formal statement on the Australian position on wine and dot vin so that there can be, I hope, a degree of clarity about the what the Australian position is.

So, "The Australian government appreciates the sensitivities associated with geographical indications, GIs, particularly in respect of wine and vin. We are interested in ensuring that appropriate safeguards are in place. Our position is that the existing safeguards agreed by the GAC in Beijing are sufficient and appropriate. And we are encouraged that the ICANN board has

accepted the GAC's advice on safeguards that should apply to all gTLDs. It may be useful to clarify what a GI is and equally what it is not as this is central to the current discussion. In short, under the widely accepted international standard, the WTO agreement on trade-related aspects of intellectual property rights or the TRIPS agreement, a GI is a way to identify that a good originates from a particular geographic location, which gives the good a quality, reputation, or other characteristic. For example, in Australia, the term 'champagne' on the label of a wine bottle is reserved for products that originate in the French region of Champagne. The TRIPS agreement sets a minimum standards of protection WTO members must be provide for GIs. Individual countries provide protection for specific GIs under their own national law according to the circumstances in their own territory. In some cases, this means that one country may recognize and protect the term as a GI under its national law while another country may consider the same term to be generic and descriptive. There is no universally agreed list of GIs. The legal framework around GIs was developed for and applies to trade in goods and particularly relates to a link between a good and a location. It does not deal with the use of geographical terms more broadly, for example, in a web address and does not prevent terms protected as GIs in some countries but being used for other purposes not concerned with the subject matter

protected. In fact, as a GI often refers to a broad geographic region, it is possible for a wide range of travel, real estate, trade, and other community and commercial uses to be appropriately and legitimately associated with these terms.

So an example of a legitimate use of a term recognized as a GI by some countries could be champagnecellar.vin where the operator is trading incorrectly labeled products. Australia does not consider domain names operate as GIs as they are not appended to any goods and does not agree that terms associated with GIs, whether in one or more countries, should be exclusively limited for this purpose. The principles underpinning the protection of geographical indications do not translate into the online environment in that domain names have universal reach while GIs are protected territory by territory and there is no consensus on their international protection. We are concerned that a number of the suggestions from the European Commission overstep the boundaries of current international law and the protection usually afforded to intellectual property rights. The Australian government does agree that domain names can be used in confusing or misleading ways and that there should be appropriate measures to address this risk. The Australian position is that the existing safeguards outlined in the GAC's Beijing Communique, particularly 2, 5, and 8, are appropriate and sufficient to deal with the potential for misuse of the dot wine

and dot vin new gTLDs. These safeguards have now been accepted by the ICANN board. And, as a result, ICANN's contracts with the new gTLD registry operators will provide those protections."

Sorry. I'm just getting to page 2 of my voluminous statement.

This is why I keep Peter around, because he's fantastic.

"Contracts with the new gTLD registry operators will provide that terms of use for registrants will include a prohibition on trademark or copyright infringement, fraudulent or deceptive use, or otherwise engaging in activity contrary to applicable law. And there is a mechanism for making complaints if a domain name registration has been used contrary to the above. And there are consequences for breaching this agreement. The Australian government has given careful consideration to the issues associated with dot wine and dot vin. We believe that the identified concerns are adequately addressed by the existing safeguards which prohibit fraudulent or deceptive use of the domain names.

The protective framework governing GIs has been the result of careful thought and mutual agreement for many of our governments over a number of years. It would be of serious concern if conditions from the GAC effectively redesigned the

concept and protections of GIs as they exist in other fora and should not be negotiating exemptions to the TRIPS agreement in the GAC, especially while the mechanisms for GI protection and infringement are more appropriately the subject of negotiation among experts in the World Intellectual Property Organization or the World Trade Organization. The GAC has not reached consensus on additional safeguards. Indeed, it has not even reached consensus on why such additional safeguards would be needed. In other cases where consensus was not achieved, the GAC has advised the application should be allowed to move forward. The absence of GAC consensus has been conveyed to the ICANN board. And it's the Australian government's view that the applications for dot wine and dot vin should be allowed to proceed."

And that ends the statement. Thank you for your patience.

CHAIR DRYDEN:

Thank you, Australia.

Would any others like to make an additional -- an initial statement? Comments?

Spain, please.

SPAIN: Thank you, Madam Chair.

I would like to second the words spoken by the European Commission.

What I want to make clear is that we should be open to delegation of the two new gTLDs, but provided and if the GI right holders were protected in compliance with Spanish and European legislation. This condition is not currently met, and no applicants offer it, nor in the application, nor in the PICs.

So there are too many discussions going on around the world on GIs that we acknowledge that, so while the protection of GIs is under discussion, we think international organizations, such as the WTO, we believe it is urgent to wait until an agreement is reached at the international level and keep the delegations on hold until that moment.

Thank you.

CHAIR DRYDEN: Thank you, Spain.

Before I invite additional speakers, could we slow down the speed at which we speak?

We have a request from our interpreters to to just slow down the pace a little bit. So Italy, please.

ITALY:

Thank you, Chair. Thank you, France.

I start from the end. We agree with the Commission and we share the same concerns. At the same time, we want to be constructive here. And again, starting from the end, we are in favor. And as Italy, we'll do our best to achieve the result of an efficient protection of GIs, right holders and consumers of wine and wine products. But this is an overall discussion, overall issues.

We expect that ICANN in this case does not go beyond the initial evaluation of the two strings, wine and vin, until an agreement is reached between GI right holders and applicants for the two strings.

We share the strong concerns. I mean, we said it before. We submitted formal letters. And this concern is shared among the majority of the members here.

At the same time, we want to be firm and flexible at the same time. We want to be firm on the principle and flexible on how to get there. And we understand this meeting in Buenos Aires is just an invaluable occasion to continue the discussion, to continue the debate. It's not over yet.

It's crystal clear there are wide margins for improvements, and we need time. It takes time. This goes beyond the procedures. This goes beyond the technical legal procedures. There's much more involved in this.

So I wanted to launch this message. I mean, don't rush. I mean, let's talk, let's discuss. We can get there. We have to be firm and we will be firm, very firm on the principle, but at the same time we are ready to be very flexible on how to get there.

Thank you.

CHAIR DRYDEN:

Thank you very much, Italy.

I have requests from France and the United States for additional initial statements. I see New Zealand and Netherlands and Canada.

Okay. France, please.

France. You no longer want the floor?

Are you withdrawing your request to speak?

FRANCE:

I'll go later. I leave the floor for now.

CHAIR DRYDEN: United States.

UNITED STATES OF AMERICA: Thank you, Madam Chair, and thank you to colleagues who have already shared their views.

I want to first comment on an intervention made by our colleague from the EU Commission. There was a sentence there that said ICANN needs to address the concerns of all members. And that is a sentiment with which we wholeheartedly agree.

I would have to say that a great deal of our position has already been reflected in the comments, the intervention by my Australian colleague to my left, but we, too, feel very strongly about this issue, and we'd like to share our thoughts with colleagues in the room that include interested stakeholders in the ICANN community, since, regrettably, our discussions in Beijing and Durban were not as public. So this is a useful opportunity for us to be very, very clear as to the U.S. position.

As many of us know, the matter of special GI protections in the Domain Name System has been debated for years, starting with the 2001 WIPO II Internet domain name process. As people will remember, no consensus was reached then nor in the intervening

years. The matter of GI safeguards in these two specific strings has been extensively vetted by the GAC and no consensus has been reached to date.

As we understand what Europe is proposing, it would actually have some very, very unfortunate side effects.

Consensus has been elusive on this matter in the DNS because there is no international consensus. That has been repeated many, many times. To achieve consensus by Internet market participants to take on the responsibility of providing IP safeguards or protection mechanisms, there must be an existing global agreement to regulate certain behavior.

To do so otherwise puts ICANN in the position of creating new international law. As a point of history, ICANN was very mindful throughout the development of the uniform dispute resolution process, the UDRP, and all of the rights protection mechanisms that have filed that the success of those negotiations hinged on the ICANN community support for the governmental interests in preventing bad faith or deceptive commercial behavior.

Now, generally, and I think we have a long history here, the U.S. has supported market-based approaches to identify problems in the DNS. In the past, negotiations between IP rights holders and gTLD registry operators or registrars within the ICANN context

were intended to appropriately balance intermediary responsibilities of providing mechanisms and protections to combat bad faith behavior.

We do not see that same approach working successfully in this situation, because the world's governments do not agree on the scope of protection for geographical indications, on the territoriality of geographical indications, nor, for that matter, on the definition of geographical indications.

As such, there is no international consensus on what is or what is not considered bad-faith behavior relating to the use of geographical indications in the Domain Name System.

However, we are apparently being asked to leave these difficult, complicated matters to market participants. And this would institute a presumption of bad faith where one country's GI is registered as a domain name by another country's nationals without consent by the world's governments or the broader ICANN community.

So, in effect, you would have us endorse asking market participants to do the work of governments by forcing them to interpret the intellectual property treaties, and then to choose an implementation mechanism.

This seems to us to be asking the market to resolve the government's failure to reach consensus in the appropriate fora. When the time is ripe for work at ICANN to reflect a governmental consensus on the protection of GIs, the United States stands ready to engage constructively with the ICANN community to find appropriate market solutions. That time, however, is not upon us at the present. For these reasons, we support the applications moving forward without additional safeguards or negotiations.

Thank you.

CHAIR DRYDEN:

Thank you, United States.

Next I have New Zealand.

NEW ZEALAND:

Thank you, Chair. I'll be much briefer than my colleague from the U.S., but New Zealand associates itself with the statements from Australia and the United States. We are broadly in agreement with the sentiments of those statements.

We are concerned that we are, in this forum, forever conjugating concerns which are being negotiated elsewhere on matters of trademark law, geographical indicators and other issues with the Domain Name System. We don't think that these automatically

transfer between environments, and any move to do so needs to be examined carefully and with cool and patient regard.

I want to comment briefly on the statement or the letter from the vice president of the European Commission which names the U.S., Australia and New Zealand as opposing the geographical indicators in dot wine and dot vin because we, and I quote, have obtained specific safeguards for trademarks which are used by wine producers. This is patently untrue.

While we cannot speak on behalf of any other country, and we certainly do not presume to do so, for New Zealand's part, our concerns lie in seeking to use the ICANN to resolve what are I don't outstanding matters in international law. It's not appropriate.

Finally, I'd just like to comment that our view is that the existing safeguard text which has been put forward as a general recommendation for all top-level domains is adequate protection in dot wine and dot vin. New Zealand sees no reason why these should not go ahead.

Thank you.

CHAIR DRYDEN:

Thank you for that New Zealand.

Next I have the Netherlands, Canada, and France.

NETHERLANDS:

Thank you, Heather. Just a couple of comments. First of all, of course we agree with the EU Commission as other European member states here.

I think -- I wanted to make one thing very clear in discussion. We are talking about treaties, international law. Of course, GAC is not going to, let's say, have new GT law or making even law here. I think what we are doing here is something different. We are proposing safeguards to be into, let's say, the policy, the naming policy to integrate, to protect valid interests.

So we're not making law here. And I think that we -- we should focus on what the problem is, safeguards for producing and consuming parties, which also in other things which we do in the GAC is something which is not bound only to what is legally accepted in treaties, because every advice we have given on IGO protection, country names protection, regional, geographic, and others are part of our own thinking about safeguards.

If we constrain ourselves only to what is legal, accepted, or in a treaty somewhere, we are not relevant as a GAC, I think. Our work has no sense, because other things already take care of this.

So our main goal is to protect through safeguards with the community protecting valid interests, and to say that something is not into a treaty or something is not internationally recognized means that we can forget also a lot of other advice we have done in the last two, three years. So that's, I think, a central point I want to make.

Thank you.

CHAIR DRYDEN:

Thank you, Netherlands.

Canada, please.

CANADA:

Thank you. Canada shares the concerns expressed by Australia, New Zealand, and the United States. Canada believes that geographical indications can be adequately protected by national laws and broader safeguards issued by the GAC in Beijing which the Board has already accepted.

The GAC made numerous attempts to reach consensus on this issue. We consider the matter to be concluded after the GAC's third unsuccessful attempt in intersessional work. As a result, ICANN should continue with the delegation of dot wine and dot vin.

GAC's inability to issue specific safeguards for dot wine and dot vin was a direct result of the GAC not being able to reach consensus due to a range of views among governments. It was not a failure on the part of the GAC chair. The chair followed the same process for dot wine and dot vin that was followed for other domains where the GAC could not reach consensus.

It is not surprising that the GAC was unable to reach consensus on specific safeguards for dot wine and dot vin. The implementation of protection for geographical indications has presented unique challenges in international fora such as the WTO and WIPO that are better suited and more appropriate to address this complex intellectual property issue.

Fundamental questions regarding geographical indications need resolution in other international fora before the GAC can address their protection in the Domain Name System. We are concerned that re-opening the discussion about dot wine and dot vin in the GAC risks diverting GAC resources into an endeavor for which the GAC is not well suited.

CHAIR DRYDEN:

Thank you, Canada.

So I have France in the speaking order. And if there are any new requests to speak, so from those that have not yet spoken, please

indicate if you are interested in taking the floor. We're coming to the end of our time.

I'm content to go a bit over in our time, but I want to make sure we get initial statements from all of those that wish to speak.

So I see Switzerland. I will add you.

Okay. France, please.

FRANCE:

Thank you, Mrs. Chair. First of all, I would like to say that we share the view expressed by our American colleague that it's a good thing that this GAC session is opened. It's very important that the whole community knows exactly what is at stake here.

Second, I would like to thank her for making very clear that direct discussions and the search for ad hoc solutions between applicants and representatives of the IGs are invalid. So now we know exactly where we are, and we -- it's important that they know -- they know that.

Third, I just would like to say that we still consider that the protection provided by the safeguards are absolutely insufficient. We share the idea or the fact that there is no consensus on the protection of IGs. The conclusion that we draw from it is that it is not, as you said, to the GAC to make such decisions, such

important decisions when it comes to international law, but I just wanted to remind that though there is no consensus, there is something. We are not talking about a blank page. A lot of work and a lot of discussions and a lot of agreements have been reached already throughout the world. 111 countries all around the world protect GIs through a special system. Not only the whole of Europe, but also countries in America. Central American countries protect GIs. Some quite recently, like Guatemala, who just passed a law on July 24th this year to protect GIs. Other South American countries protect GIs as well. Countries like Argentina, where we are now, have a very developed quality wine industry and they know how important protection of GIs is in that respect.

Canada has just concluded on October 18th a Free Trade Agreement with the European Union including the protection of GIs. And we all know that discussions have started between the American -- the United States and the European Union regarding the Transatlantic Trade and Investment Partnership, TTIP, in July, which could be, we hold hope that, most significant trade agreement that has ever been launched between these two partners. And at the opening of the negotiation in July, the U.S. declared that they were ready to discuss the protection of GIs with the EU. It's been planned that the issue will start being discussed during the third round of negotiations that will take place in December. That is exactly in a couple of weeks.

So the conclusion of that is we simply can't make decisions here while such an important negotiation is taking place, and we can't make decisions that could very quickly become inconsistent with international regulation.

Thank you very much.

CHAIR DRYDEN: Thank you, France. And I have Switzerland.

SWITZERLAND: Thank you, Chair. And good morning to everybody.

I think we should, in this discussion, keep in mind what the -- let's say the role of the GAC here in this whole exercise is. The role of the GAC is to help ICANN in the new gTLD program to maximize opportunities for businesses, for consumers, in exercising their freedoms and rights, and to minimize risks. I think this is something that should be at the very basis of our deliberations.

And we have introduced or asked for additional safeguards in several aspects of, let's say, online life independent of whether there is international agreements or what kind of international agreements there are or which member states or which states in the world are part of any agreements. If you take things like the

financial sector, intellectual property, there are agreements, but there are also countries that have not signed agreements.

If you look at, for instance, inherently governmental functions, like dot army, we've asked for an additional safeguards and there are no legal international agreements on these terms. Also things like WTPF or sucks where we are asking for additional safeguards to protect citizens and users from cyberbullying and harassment.

To some extent, it's also common sense that we agree on sensitive issues, whether these are markets or other issues, where we think that additional protection is needed and should be introduced. And we are convinced that here, as well, independent on where we are in negotiating these issues in other fora, there is a high risk of consumer -- not protection. The opposite. Of high risk for consumers that they are misled. There's a risk for producers that they either suffer from having to register defensively, going into auctions, spending lots of money, or even worse, that they have others who should not use domain names that are using their geographical indicators. And we would fully support the European Union's and others who have the view that we should wait until the situation is more clear here. And I think it's wiser not to proceed with these two strings than to run into something that is likely to cause damage to producers and

consumers of wine and is also setting a precedent for other issues that will come up or might come up in future rounds.

Thank you.

CHAIR DRYDEN:

Thank you, Switzerland.

Please, go ahead, Argentina.

ARGENTINA:

Thank you, Madam Chair, and thank you to all the colleagues that have made their statements and comments.

I would like to say that for Argentina, this issue is important, and we express -- we share the concerns expressed by Europe and other European countries. But at the same time, some Latin American countries have a real interest in the issue.

We will hold a meeting on Friday. There is a working group in our regional kind of action for information society that is led by Brazil and the vice presidency is led by Argentina. We will have this meeting in the Ministry of Foreign Affairs office, and this will be one of our topics of discussion on Friday. So after the meeting, we will send you some comments to all the GAC list.

Thank you very much.

CHAIR DRYDEN:

Thank you.

Okay. Can I sum up?

You have one quick comment? Okay.

We do need to close at least this session. So, please.

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Hello, I just wanted to mention that lengthy statements have led us nowhere. So when it comes down to practical issues, a lot has been said, that we're asking for market players and applicants to sort out problems the governments can't. And we've got evidence that there are other applicants -- for instance, dot beer, and I make reference to a letter sent to Heather Dryden and other EU member states on 11th of November stating clearly that they (indiscernible) the protection of geographical indications and dot beer application, and if you allow me to read through the statement. It says clearly, "Domain names related to geographical indications will be protected and blocked at no cost to the GI right holders before the TLD is introduced so that no parties may apply for them. A procedure will be defined so that governments can request a GI's related domains if they would like to take possession of them.

A list of those names will be communicated before sunrise to registrars.

CHAIR DRYDEN: Could you slow down, please. Thank you.

>> Sorry.

Well, in fact, they foresee the implementation of a process that can allow governing bodies to register ex ante these names, and there will be a sunrise period. So when it boils down to practicalities, this can actually be implemented.

So we don't understand why can't this be done by the applicants in both the vin and wine applications.

Thank you.

CHAIR DRYDEN: Thank you. Okay. I see a request from Norway and then I really do need to close the session.

Norway.

NORWAY: Thank you, Chair. For -- as you know, Norway is not sort of the largest wine producing country but of course I would also like to underline that Norway also stands behind the comments made by the European Commission.

And, also, I think quite essential that the Netherlands and Switzerland has pointed out the role of the GAC and why we give advice. And of course we give advice in the absence of international law, et cetera.

So I think we have to really be mindful about this.

And I think also, we just also wanted to also support what Spain said. The wise thing to do, in our opinion, is to wait and not delegate these strings numb this difficult issue has been resolved. And this is also according to our principles from 2007, that ICANN should respect this -- these difficult sensitivities regarding different issues, including geographic names and national and religious significance, which I would exact say also includes the GIs.

So it is basically that simple.

Thank you.

CHAIR DRYDEN: Thank you, Norway. Okay.

So regarding the role of the GAC, that's certainly been very much on my mind in all of this. And expectations around what that role is are not entirely aligned.

As I stated at the outset, our effort was to come up with consensus safeguard text. This was not possible. And this is not a matter that we are going to re-open in the GAC.

As far as what we've heard in this discussion, I think it has been enormously useful, and there is a record now from this exchange that does provide further insight into the nature of the range of views, the disagreements that exist around this table.

As far as whether the string should proceed or not proceed, I did hear differing views on that. There doesn't appear to be agreement about whether negotiations should continue among some of the parties. Some are clearly very much in favor of that continuing, and others not.

So what I am going to ask is that the secretariat prepare a summary of this discussion. It will be circulated to the GAC. And this will be reflected in the communique. And this will allow us, I think, to draw on what we have heard here today in a way that is useful to us.

So I see one request for the floor. Please don't undo my summary. Okay.

>>

No, just a question, because I think it would be useful that we actually have some language in the communique. This is what we discussed yesterday, and I think it's something that would be useful to have. I mean, I think that is something that we would very much insist upon. It could be different -- different languages, and I'm going to circulate a text to everybody in GAC to have your opinion on it, and then we will see from where we take it. But I think this is something that is so crucial for the European Union that we would like to have it reflected properly in the communique.

Thank you.

CHAIR DRYDEN:

Thank you. So my proposal, it also should include, I think, a reference to where I did hear agreement where this cannot be resolved by the GAC, the issue of safeguards, or within ICANN because the discussion is to be more appropriately held elsewhere.

What I have asked is for the secretariat to provide a summary of the discussion. If you could provide your text via working with the secretariat in order to roll that out.

I'm concerned that we do keep moving forward on this issue and that we find areas where we can have some convergence of views. And this is the aim of my summing up, is to try to point out where that might be possible.

And as well, if we have some text circulated today that does provide us with a bit of time to work on that text. But if we are unable to move it forward, if we end up again with polarized views and not being able to move forward, there will be no eight-hour session to discuss that text. That I am sure of.

So what I will ask is that if there is something which you would like to see captured in that text, and you know others may or do have other views from you, those are precisely the people you need to speak to. Do not, please, talk among like-minded only and then find that we can't make any progress when we get to finalizing the communique.

So as I say, this is the process I would like to see followed. And I am looking for some common ground here.

And again, we've had a very useful discussion here, a very informative one, and one that I believe would be informative for others, including the NGPC.

Okay. So I would like to close here, and move to coffee break. So 30 minutes, please. Thank you.

Italy, you have -- Do you insist?

ITALY:

A suggestion. Very perfect, your conclusion, interest of this discussion and so on. And the involvement of the secretariat to provide sort of a briefing paper with the conclusion of this discussion.

I would add why not just indicating a small group or sherpas to talk about and prepare also the draft text that we will discuss on Wednesday afternoon. Because this will bring more having the two positions confronting themselves, maybe easy the final conclusion of the community and avoiding going late in the night.

Thank you.

CHAIR DRYDEN:

Thank you. So let's circulate the summary at the end of today and get some reactions to that. Talk informally among yourselves as well about where, again, there may appear to be possible common ground. And then we can also create a small group after we have seen some text, and also we're expecting some text from the Commission as well to be circulated along with what the secretariat will circulate.

I do not want us to get bogged down in process, and I do not want us to lose sight of the fact that we are not re-opening the safeguard text; that there are areas of real disagreement on other related issues. I've outlined them. They're in the transcripts. They will be in the summary. And I'm asking for your cooperation in that, because, again, I don't think any of us want to have a lengthy negotiation for purposes of the communique.

I'm seeing more requests to speak. I'm trying to close the session.

All right. I have Denmark and Iran, and then I am closing the session.

Denmark.

DENMARK:

Thank you, Chair. Actually, it's a question about the process moving forward. Did I understand that this summary would be provided to the NGPC? Because I think this has been a very useful exchange among the GAC and the people in the room. But, really, it would have been very useful to have this discussion with the NGPC in the room, also because they have actually requested to get more information about the full range of use in the GAC behind the GAC advice. So I hope a summary will be provided. And, hopefully, at least, some members will have opportunity to discuss this with the NGPC moving forward. Thank you.

CHAIR DRYDEN:

Thank you, Denmark. That's not a question. But, as far as your comment, yes. The idea is that the summary text, there will be one piece of text that we're aiming to put in the communique in order to roll up the discussions we've just had. And as well, of course, we're meeting with the NGPC. So we can raise it with them and as well the rest of the community has the benefit of being here. And also we have transcripts. And so I think that's clear now. Iran, please.

IRAN:

Thank you, Madam Chairman. Good morning to all of you.

Sunday usually is a peaceful day always. That's why people -- at least in the morning of Sunday many people they don't work.

I don't refer to the famous song of "Never on Sunday." Some people remember; some people do not remember.

Having said that, Madam Chairman, our understanding of communique is something that everybody agreed. So you could not put summary of discussions in the communique. And you should not convey summary of discussions to NGPC. I think it might be good that people agree on a short sentence, one or two paragraphs. And the other is referred to the statement made by

colleagues. And NGPC is free to take into account all the statements and try to go ahead. So what you said, I think we understand that some very brief summary of discussion be prepared for reflection. Based on that, we prepare one or two paragraphs, if we could, to be included in the communique with a proviso. That is very important, Madam Chairman. Anything in the communique should in no way contradict or compromise a principle, traditions, rules based on which we have worked up to now.

We are not dealing with the working methods under discussion. This is something that is good; but, even if it is approved, would not have any retroactive application. That's all. So we should not mix up the situations.

So I fully agree with you that a summary will be prepared for reflection. Based on that, either a few people getting together, prepare one or two sentence which could be discussed or would be discussed at GAC for inclusion in the communique with that proviso that I mentioned. No contradiction and no compromise with the principles, guides, procedures, traditions based on which we have worked up to now. We should be very, very careful. And I don't think that it is appropriate that the summary of discussions be communicated by you to any organ outside the GAC. And we

should not mention that the ICANN would or would not be able to do something. Separate of responsibility. ICANN may or may not.

We are sitting in GAC, and we should talk about what we can do. We listen to all attention to the distinguished delegations of the EU and others, United States, Australia, and so on. All of them are good as far as they are concerned. They discharged their responsibility. However, we need to put something which is agreeable to everybody. So I suggest that finally would be one or two paragraph in the communique, if we all agree on that. But not more than that. Thank you.

CHAIR DRYDEN:

Thank you. So just very briefly, any text that would be in the communique would be agreed text. I may have confused some of you by using the word "summary." But what I want that draft text to be based on is acknowledging the areas of agreement or disagreement and so on that have been made clear and furthered by our exchange today but also are consistent with earlier discussions that we've had.

Okay. All right. So coffee break. 30 minutes, please. And then we will come back and discuss working group activity.

(Break)