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ABU DHABI – GAC Meeting with Amazon.com  
Sunday, October 29, 2017 – 13:30 to 14:00 GST  
ICANN60 | Abu Dhabi, United Arab Emirates

UNKNOWN SPEAKER: Good afternoon, this is ICANN 60, GAC meeting with Amazon.com, October 29th.

THOMAS SCHNEIDER: Test test, transcribers can you hear me? Perfect, I see you, thank you very much and you can clear.

THOMAS SCHNEIDER: OK, welcome back to the next half day session of the GAC. This will definitely be an interesting and important session, I assume, because it deals with something that has a long history as we all know, let's hope that we'll be able to constructively continue to work on this issue and working towards a mutual understanding of each others situations and perceptions, and interests. Then try to somehow find a way to, let's say constructive solutions of challenges that will satisfy everybody to the extent possible. With this, let me inform you that we have responded positively to the request, or the invitation of the representatives from the Amazon company to have an exchange, and have an interaction with the GAC, which is what we are doing now. I think this is a

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good thing to have this exchange, that hopefully will help us understand each other better and be able to identify elements that would be part of a solution or a way forward on this important issue. With this, maybe, because not everybody may know you, let me first give the floor to the representatives from the Amazon country, we've been talking about country and territory names so long. It is not my language of course, in my language it would, country and company start with two different letters, sorry for that. I'll continue in Swiss German, because that makes it easier for me. I wanted to say that I think we should give an opportunity to people from the Amazon company to present themselves so that you know who is sitting here with you. Thank you.

DANA NORTHCOTT:

Thank you Thomas, my name is Dana Northcott and I am joined here by my colleagues Scott Hayden, Christina Rosette, and Chris Wilson. We have three goals today, one, to share how we got here. Two, to present a compromise solution. Three, to answer your questions. Thank you for the opportunity to speak with you, we really are very pleased to be with you here today. On August 4th, shortly after the IRP declaration, we wrote to the GAC chair requesting the opportunity to meet with the GAC before it makes any decision on this matter. While awaiting for acceptance of that request, the IRP panels recommended 60-

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day deadline approached, and we wrote to the board on day 59 asking them to approve our questions based on the IRP filing, so that we could understand our status. We continue to believe that the board should approve our applications, but we'd like them to move forward instead with a strong agreed upon compromise that addresses the needs of the governments, and that is why we are here today.

UNKNOWN SPEAKER: We applied for dot Amazon, to have a space to innovate for our 300 million customers and 500,000 employees around the world. We also want to have a stable and secure foundation for communication and e-commerce, and over time customers should come to recognise and rely on dot Amazon as a signal of authenticity. We want to use our TLDs to surprise and delight our customers, to innovate and to contribute to the security and stability of the internet. We took great care to ensure that our applications met all of the applicant guidebook requirements, we received perfect scores on our applications, scoring 41 out of 41 across the possible 27 scored questions. ICANN's geographic names panel determined 3 times that dot Amazon is not a geographic name that requires government approval. I'm sorry can you go to the next slide please. There we go. We also prevailed in third part objections to our applications, but despite

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these facts, we have always been willing to meet and to compromise.

CHRIS WILSON:

Next slide please. Thank you. We are committed to and support the ICANN multi stakeholder model in the IANA transition. In fact, we're early public supporters of the IANA transition and participating in the associated working groups and advocating for the completion of the transition before sceptical politicians. We recognize the valuable role that governments play in this model, this is why we worked so hard for so long within the ICANN process, in line with the rules of the applicant guidebook and exhausting every ICANN accountability mechanism in pursuit of our applications. These include working with the GAC, meeting with the GAC on several occasions, to discuss a practical solution. Meeting in Brazilia with representatives with Brazil, Peru, and other countries, to talk about these proposed solutions. We committed publically to the proposed public interest commitment and requested meetings with the GAC numerous times. We've also worked within the community developed roles, following every process that was available for us, for filing the reconsideration, consulting with the ombudsman, participating in a cooperative and engagement process, and unfortunately ultimately we had to file the IRP to move forward in 2016.

UNKNOWN SPEAKER: Next slide please. We understand that many of you may know this, but we wanted to help anyone in the GAC who is uncertain of the key facts and findings of the IRP final declaration that issued in July, to understand why the IRP panel, which did include an ICANN appointed panelist, unanimously agreed on the key finding, and that key finding is that the board had violated ICANN's articles, by laws, and guidebook, because the board had an obligation to make an objective and independent judgement when evaluating the GAC consensus advice, and it failed to do so. Next slide.

The IRP panel found that the identified public policy considerations, were without merit. They evaluated each of them in turn, and made the following findings. That there was no material harm based solely on the Amazon TLDs being delegated to us. That the one word match in the name of the regional treaty organization, is not likely to be misleading to users of the internet. That the legal claim of Brazil and Peru was without merit, because there are no inherent governmental rights to geographic terms and that Amazon was not a listed geographic name within the scope of the applicant guidebook. While the IRP did find in our favor, we recognize that this matter remains and important one and a sensitive one to many governments. We therefore, as Dana indicated at the outset,

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would like to discuss a practical compromise, that we believe will allow us to use the TLDs for our commercial purposes, while fully respecting the cultural people and ecology of the region. Next slide please.

Our practical compromise is a public interest commitment, a public interest commitment that would be incorporated into the registry agreement, our contract with ICANN under which we would operate the TLDs. It would be a public interest commitment for those of you who may not be familiar with the concept, is one that is based on GAC advice from 2012, that the board adopted and mandated into certain obligations that all registry operators must follow. It is legally binding, and enforceable by ICANN compliance, a fact that we confirm with ICANN compliance earlier this weekend about the scope of enforcement about public interest commitments. In fact ICANN compliance has established an enforcement regime that includes an online complaint form through which an aggrieved party or party who believes we would be violating our public interest commitment, could provide information that would allow compliance to investigate. If they make a determination that it does appear that we have violated the commitment, there would be, it would automatically be referred to an established dispute resolution procedure. Next slide.

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The PIC, public interest commitment has 3 primary components, the first of which is that we would block culturally sensitive names of the second level. This means that no one would ever register and use these names in the dot Amazon TLDs. We would of course, consult with relevant governments and identify the universe of these terms that will be blocked.

One obviously example would be rainforest dot Amazon. Next slide. The second element is that there would be an ongoing process, an ongoing process through which we could identify other culturally sensitive terms that may not have been identified at the outset. We would, under this process, have regular consultations with the relevant governments, under defined procedures. Next slide please. The third and perhaps most important component is that we would agree to support applications in the next round, applications for dot Amazonis, dot Amazonia, and dot Amazonica, which are the local language names in the region. Applications that would be filed or endorsed by the regional treaty organization, and its member governments.

Our support could include a number of forms, whether it would be technical support, in terms of back end registry operation, application preparation support, in any way from drafting the applications to reviewing them before their submission, and of course, what will be implicit in this, is that we would obviously

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agree that we would take no action against the applications as they would be evaluated by ICANN.

UNKNOWN SPEAKER: Thank you very much for this opportunity to speak with you. We really are interested in hearing from you, discussing the opportunity for a resolution on this matter, so it would actually be of benefit to all. We really appreciate that and would like to meet with anyone and everyone, individually or as a group to continue the discussion. Thank you very much.

THOMAS SCHNEIDER: Thank you for this presentation and I think there are a number of elements contained in it that are worth discussing. The floor is open to GAC members and to exchange with us here on this. I have Iran first and then Brazil. Thank you.

UNKNOWN SPEAKER: Thank you chair. I raised my hand before you given the floor to the distinguished colleagues coming from the enterprise, looking for this applications. My statement was that this process that you have today, should not put any precedence in future. That for any application of anything we need to have a formal exchange of information, within the application. This is a case by case and this in accordance with the full agreement with GAC, so



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should not be considered in future for every case, you need to invite the people formally to exchange their views. We are government and we maintain, and retain our rights to discuss and decide accordingly. Don't take it please that it will be in future used by another applicant. It is a particular, specific, and rare occasions that we have given this agreement in order to receive anything more than what we have received. Thank you.

THOMAS SCHNEIDER: Thank you Iran. Brazil.

UNKNOWN SPEAKER: Thank you Thomas and I would like to thank the representatives of Amazon for their presentation. I'd like to say that we welcome this opportunity to exchange views, we have been discussing on many occasions throughout those years, and we are totally in favor of being very transparent and open about everything that we do. By the way, Mr Chair, if I can make a small suggestion, I do not want to take the time for other colleagues to ask questions or interventions.

But, I have seen that today we have these interactions with Amazon for half an hour, then we have one full hour to discuss the IRP. Then we have another one and a half hour, kind of overdose of this. Maybe we can extend a little bit, time for this

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exchange, to the extent that it will be necessary without restricting ourselves to half an hour, so we allow enough time for colleagues to intervene. It's clear from the presentation of Amazon that the company has been in compliance and following all the procedures that were established as per the applicant guidebook and all procedures.

I would like to say that so did governments, we have also fully complied with all the steps towards the warning and all the procedures we have been following, including the consultation we had with you in Brazil, back in 2013. The company has played by the rules and so did we. This is just to make sure that we are on an equal basis regard to all the steps that have been followed in that process. This leads me to comments, that in our review, DCs a case they propose is two conflicting views. Each view in a way is legitimate, according to some internal reasoning. The approach that Amazon has taken in the initiative, I think are totally legitimate from the perspective of the company, of the corporate interests, and I would say that the initiatives that have been taken by the council are also legitimate according to the reasons and the nature of concern that guide countries. That leads me to comments that we were a bit concerned about the, we will not discuss it now, but that to make my comment I have to refer to the final declaration of the RP, because that is what is bringing us to discuss this issue today. Because the RP in a way

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seems to indicate that the GAC, governments as a whole by the GAC, made a decision was based itself on wrong arguments, on wrong assumptions, which by the way reflects some of the prevailing view among non-government stakeholders in this organization.

The governments are not usually fully aware of what is going on and tend to do things in a wrong way, I think that kind of bias. But, for all of us that have been involved with this, and this is an issue that was prolonged itself for months, it included many meetings, many opportunities, not only in plenary but also on the margins of the meetings in other meetings beyond the ICANN meetings, we have met on the margins of other internet governance meetings as well, we met. There was a lot of opportunity for all arguments to be tested, to be assessed, to be discussed over a period of many months, so my point is that when the GAC made the decision, it was out of recognition that there was, on the part of the Amazon countries, a political perception of the sensitivity of the name. Maybe the cause of discussion this was supported by some statements that were not correct, but this were in the course of the discussion correct. At the moment, the decision was made, it was clear in everybody's mind that it was a very clear perception of the political sensitivity and I think this is what guided the discussion. This is totally in line with the applicant guidebook that provides

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for governments to object to application on the base of sensitivities that might be raised. That's up to governments to assess what are those sensitivities. That is why the RP final declaration raises concern to us as it seems to indicate that the political assessment by the GAC should be further judged by the board, we think that kind of... that would take us to some very dangerous ground, because if the role of governments and the political assessment for governments to be judged independently by, I think that would be a fundamental attack to the new stakeholder model.

May I just recall that the GAC advice did not refer to any particular set of reasons, it just gave the advice so it is the RP panelists are referring that. Of course, there might be conflicting views but having been there, I am totally convinced that when the decision was made, nobody thought that it was because it was in the [inaudible]. This that kind of discussion we have had extensively. Let me just, then point out that I think it is important to look at this issue from the perspective that there are two different approaches to this issue. Both of them are legitimate.

I think you have made a very good presentation, but with all the respect, I must say that you made some selective quotations of the expert advice we have been getting on this, along the years. For example, you refer to the fact that one of the experts ruled

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out that governments have no rights to geographical names, and the conclusion of the French legal experts contains two parts, part A says there is no rule of international or even regional national law applicable in the field of geographical indications which obliges ICANN to reject your deplication. This is correct, but there is also part B, that says there is no rule of international or even regional national law applicable in the field of intellectual property, in particular of trademarks in the field of fundamental rights, which obliges ICANN to accept this application. It was a kind of very biased approach. Of course, if I was to make a presentation, I would take the second part, you took the first part.

I think both are there in the legal experts advice. In regard, for example, for the cognition of the existence of community objection, you refer to the fact that the independent objector that was part of the applicant guidebook procedure. He recognized there was a community objection but then an Italian expert, this means that, and this is correct. However, the same Italian expert, he also mentioned in his conclusion he found that the independent objection had sufficiently proven the strong relation between the strings and the Amazon community. What he said is that he couldn't assert that there was, he couldn't identify the strong objection from the [inaudible], but he said there was a strong link between the community and the strings.

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There are just to mention if we start collecting expert views, we may end up in endless list, because we can oppose different views and opinions on this. Which boils down in our view to the fact that we have a case opposing two different approaches that have their intrinsic logic in itself, we have been working on that

I certainly welcome the proposal you have put forward to us, I am not too sure at this moment if there is any differentiation in regard to what was stated before, even at the meeting we had in Brazil back in 2013. We'll have to look into it carefully, of course, at this point I would like us to say it is welcome proposal. From the perspective of being a government representative and this issue was originally introduced by us Brazil and Peru, but endorsed by the whole membership of the Amazon corporation treaty organization, 8 countries. Also endorsed by all Latin American and Caribbean governments through the organization by the GAC, of course, but in regard to the ACTO we are in a way guided by a ministerial declaration that looked into this case and there was a declaration that the bid by Amazon should be rejected, could not be accepted without the consent of the Amazon corporation treaty organization member states.

In our view, although the objection was there, I think that provides room for some discussion, because it refers to the consent. From being one of those countries, we are guided by that decision of the minister, the liberation of the ministers, I

would say that there is room for us to consider the proposal, I would certainly agree with you, with it is much better to find some kind of compromise than to have a very clear cut [inaudible] oppose one group to the other. I think we are all working environment to try our best to make sure that we come up to solutions that can be agreeable by all of us, and we would certainly like to avoid any kind of showdown. Specifically in regard to RP, it really concerns us the kind of precedence it would set, if a decision coming from the GAC is to be further analyze and independently acted upon by the board, or anyone else. I think again this reflects the political view of countries. Thank you very much, I think it was a very good decision on the part of the GAC to allow you to come and I thank you for this, and I apologize to colleagues for taking so long, but I like to make those things. It is important for us as you have said at the beginning to see where we are coming from, because, it is very difficult to summarize what has been taking place over more than 4 years since we have started this and we look for a solution that would accommodate everyone's concern, to the extent that it can be found. Sometimes I say we have been trying to find some kind of magic formula, unfortunately until now we have not been able to find it, but I think it's worthwhile to make an attempt for it. Thank you.

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THOMAS SCHNEIDER: Thank you very much Brazil. I see Peru.

UNKNOWN SPEAKER: I would like to speak in Spanish please. I have a cold so I cannot hear myself, so if I'm speaking in a loud voice please bear with me because I cannot hear myself. I would like to thank the Amazon representatives for their presentation. Regarding my colleague from Iran comments, I would say that I fully agree and I would like to add something to the remarks made by my Brazilian colleague. Peruvian representative, I joined this discussion in late 2013 or early 2014. I was not in Durban or in Beijing, but what I can say is that the delegate representing Peru in Durban and in Beijing, is an official who represents the Peruvian government and she doesn't lie, she doesn't manipulate, and she doesn't deserve the kind of treatment that she has received from you in your presentation or your submissions to the IRP.

The Amazon department exists in Peru, it also exists in the ISO list. The word Amazonis exists. What you are arguing is that the word Amazon in English is not the word but the word in Spanish Amazonis, the original word exists in the ISO list. It is like having me saying that Germany, Deutschland, or whatever word can I find for Germany, Germany in English, are three different countries if I use also Germany in Spanish. It is the same country



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but we are using a different code for the name that has the same meaning, therefore this kind of arguments used by you in the context of the IRP has seen, not only to me, but to my government of a very low level. Really very low level submissions.

Trying to pretend that a Peruvian official has lied and manipulated a whole group of representative of foreign governments. Please, I think you are worth an apology in the first place, secondly, you have just put forward a proposal.

This is the second time that I see a proposal from you over all these years. The last time I saw a proposal was in a letter addressed to the ACTO at the Amazon corporation treaty organization, and it was with some terms that were unacceptable to any government. Because you are not careful when you write to a foreign government and you were bold enough to write to the Amazonian cooperation treaty organization, using some deadlines for getting a response. The response that you were expecting from this governments, do you really think that is the way that is conducive to an agreement with a foreign agreement, do you think that that is a respectful way of addressing a foreign government, and I am saying this because if we are going into a new space of dialogue, I recommend that you be very careful with the language you use,

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because we are talking about 8 sovereign governments, and no government is going to accept any impositions from you.

Thirdly, let me say that from the proposal that you have put forward, I have the impression that you insist on the fact that you have the right, if you can pay for that, you have the right to use the right Amazonis in any language. An advantage you will be kind enough to separate for the countries in the Amazonia, some words like rainforest, community, [inaudible], I don't know. It is the other way around, the owners of the Amazonian region is us, and not you. If we were to get to an agreement, the agreement would be made exactly the opposite way, we will be giving you the permission for you to use a certain word, not the other way around. We are the owners of the Amazonian region, before leaving Lima, in the local newspaper, there was a news article about a problem in an area that is called Honduras, you can take note of that name and you can search for that information. There was some upheaval because of an oil project. The native communities of the Amazonian region in our countries are capable and also have the right to put a stop to multi millionaire projects. Projects that can change the GDPs of our countries. That is the level of power that these communities have, that is the power that is given to them because of the applicable laws and they have this right of prior consultation,

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this laws are not only applied but they are also endorsed by the United Nations.

So, things are not always black or white, sometimes we have some grey shades in between that you are not taking into consideration, because it is clear you are a company, you want to take a nice product, you want to sell it and you want to make money, that is all. I am now introducing you to the whole range of grey's we have between black and white, and I am trying to get you to think that in the best case, the countries that are member of the Amazon corporation treaty organization will have to have consultations with all the native communities, and the question will be asked, why do we have to benefit Amazon as a company and not other company. Why them? I also ask myself the same question, why should we benefit you, you.

The truth is that so far you haven't behaved in a way that in my personal opinion, I am talking at a personal level here, makes me think that you are thinking outside that square box in which you are now. I thank you for being here, but ambassador [inaudible] said, this should not set a precedent. Unfortunately, it might be a precedent for the future when it comes to dealing with companies like yours that do not stop to think for a minute before doing away with an opinion of a large group of countries and governments represented here, you don't care and unfortunately that is the bottom line. Going beyond the name

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Amazon, the core issue here, and what I want other colleagues to see here is us, our survival as governments in this pseudo multi stakeholder space that has been invented, because they want us to make us believe that we have a place where there is dignity, but we don't have that. It is increasingly obvious that that is not the case, we don't have it because of companies like yours. Companies like yours that want to do whatever you want to do, companies like you that persist in not respecting the governments and communities we represent. I don't represent your company, I represent my people, thank you.

THOMAS SCHNEIDER: Thank you Peru. Other comments or questions? Iran.

UNKNOWN SPEAKER: Thank you chairman. I think we heard that the people coming for here to submit a compromise. It is upto the other parties to look at the compromise to accept it or not. It has nothing to do with the GAC, we do not change our advice at all. The issue is outside our mandate, the issue is with the board and within the countries. If any compromise suggested agreed by the other party, that is upto them to come up. We do not want to be involved in changing our decision based on something that we are not involved. Secondly, there are important issues mentioned is outside this activities, it is mentioned in the panel,

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saying that the issue was not public policy. I don't think it is the duty of the panel to say what is public policy and what is not public policy, it is in the 67 pages of the report that I have read several times. This is one point we don't agree at all. It is not upto any panelist to decide what is public policy, what is not public policy. It is the government who decides, this is number one.

Number two, it refers that the GAC advice was not accompanied by any rationale. The rationale was an obligation, included in the new by law from the 16th October, before it was voluntary. You could have had, you could have not had. I don't think that is the reason. The other one is saying that government has no right on the geographic name, we don't agree with that. Not because of this because of any others. I don't think that you say that we don't have right to any geographic names, for example, our capital or rivers and so on and so forth, that is unacceptable. These are the things we will clearly mention with the board when we have meeting with them. That is very important, we don't want that you, a company, or anyone decide anything from this and apply elsewhere as it will be very dangerous.

Precendence is dangerous, and I don't think that any of those reason. Last but not least, apart from the compromise that you have brought, which is upto the other party, we have not heard any new element here. All of those are already here. There's no

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new element. It is not up to me, it is upto the other countries and the Amazon community to accept or not accept your compromise. Whether it is a strong compromise or a light compromise, I don't know. You said that various [inaudible] , I don't know. But I don't think personally, it is a strong compromise. It is something, compromise, without any qualification, without any [inaudible]. Leave it to them to consider whether agree or not agree. Thank you very much.

THOMAS SCHNEIDER: Thank you Iran. Next is Portugal.

UNKNOWN SPEAKER: Thank you very much, I am going to speak in Portuguese. Let me make a few considerations, as a GAC member. I think that the company has already realized that it is creating a problem dealing with a very sensitive issue. Not only with the GAC countries have a direct involvement with the Amazon, the Amazonian region, but also with other governments, other countries that may have a problem in the future, like the ones that want to keep the word [inaudible], that is spelt the same way in different languages. Therefore this is highly political and sensitive issue for several countries and governments. Some of the countries here are not so interested in this topic, but today it is Amazon, tomorrow we may be discussing about a different

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region. People may say that this is not included in the applicant guidebook, the applicant guidebook is not perfect, and we have learnt that it must be improved.

This is one of the lessons that we have learnt. Lawyers were consulted, lawyers may say yes or no, depending on what their client wants. If the client wants them to say yes, they will do whatever they can to come up with a yes, and the other way around. That is how lawyers work. It is not just a matter of coming here with a lot of lawyers or a lot of legal arguments, it is just a matter of pointing out that you are creating problems for governments and this is an extremely sensitive political issue.

This is a pandora box, because if we thought that company has to keep the term Amazon then we would have to think that all the other regions in the world, due to cultural reasons or other type of reasons, having in to with their governments or communities would also do the same. That doesn't make any sense. This is a word that is causing a lot of sensitivities. When you created Amazon.com, I was younger and to be honest I thought that was the name for the company. How is it that Amazon created this kind of corporation? How can we say that you have nothing to do with South America, why have you chosen that word? I realised that there were a variety of reasons, and you built an empire and everybody buys from the company, this is a company that is admired for its business. I wanted to

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ask you a question. If you are respected business, economic, and e-commerce level by your clients, what is the benefit for you if you kept this name, Amazon? This name is already strong, what is the advantage for you to keep dot com. What is it that you are going to get from this, your clients will continue to be the same because Amazon works very well, because it has very good products and Amazon does a good job in the e-commerce space, so who cares whether you are keeping the dot Amazon name. The governments are interested in that. If the governments have a problem with this, you have to realise that you are creating a political problem for those governments and that is not fair. Thank you.

THOMAS SCHNEIDER: Thank you Portugal. India.

UNKNOWN SPEAKER: Thank you Chair. I will just take forward from what Portugal has said. Actually this dot Amazon is a representative case for us and for the whole world. Where there will be many business interests which will come for exclusive rights on prominent geographical or other features which have the strong sentimental value for the people of the area.



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The issue here is what do we want as a world to see our children, do our children recognize, imagine the mightiest river on the planet, or as an e-commerce [inaudible]. These geographical [inaudible] in the past, have very strong sentimental attachment with the people who live around them. In the past, we have followed a regime or a practice where these names are used by everybody in the world on non exclusive basis. In the past, while names have been used by different entities, like Amazon is using the name of Amazon. Himalaya is use by many commercial entities, no exclusive right, no patent, no IP exclusiveness has been given to anybody. Now through dot Amazon, this exclusiveness is being sought for. Whether we should go with that or not, that's the question.

Getting into the legal niceties of whether the process has been followed or whether there is a level in English, a smaller issues. Issue here is the geographical features, all the words which have sentimental values with the large section of population, can a commercial entity use it without consent of those people. In my view, the answer should be no. The people who live in the area, who are sentimentally or emotionally attached with that word or entity, should have the primary right, with the rest of the world only having the secondary rights. I think whatever legal process needs to be followed, that should be improved. This

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primacy or who has first claim to the names, should be first recognized. That is all. Thank you.

THOMAS SCHNEIDER: Thank you India. Argentina.

UNKNOWN SPEAKER: Thank you chair, I will speak in Spanish. Thank you very much to the representatives of Amazon for your presentation. I would like to repeat and reiterate what has been already said at several meetings. This is a very sensitive case for governments, and I would like to agree with the words of [inaudible], my colleague from Portugal, this could be a pandora's box, because many similar circumstances may arise with other names in other rounds. Perhaps there were English names in the first round, but in the next rounds we may have Portuguese names, Spanish names, so this is just a circumstance in a universe of events that may be much broader in the future. i would also like to support the words of Iran, Peru, and Brazil, regarding the fact that you put emphasis on the fact that countries have no right to geographical names. I'm an engineer, not a lawyer, so I will strain to be as efficient as possible in solving dispute and I try and avoid conflicts as a matter of fact. I think there should be some legal basis for countries, so as to give relevance to the

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names that are important for their peoples, for their population, and for their own economies as well.

As you should be aware I coordinated a working group within the GAC for a long time. We had not the possibility of arriving at any conclusion, there was no agreement among all GAC members, because we have difference of opinion, but many times we discussed the benefit of having a repository of name. We could never agree on it and if it might be expensive or not, but we had thought that a repository of names would be a good idea, because the applicant would have the possibility of checking, of getting in the repository and know whether that name is significant or important from some other stakeholder within this community, in other country, in other region. This would be a previous check, and I have a question for you. Haven't you ever thought that it would be important to get in contact with the relevant countries, because the Amazon is really very long river, and then check whether there should be some sensitivity where this may affect these countries and region.

So, before arriving the conflict, you might have found a way out of this situation. Thank you very much.

THOMAS SCHNEIDER: Thank you Argentina. United Kingdom.

UNKNOWN SPEAKER: Yes, thank you chair. I would like to also deep appreciation for the company for coming here and presenting its perspectives on this highly sensitive issue to the GAC in open session. It is very welcome and I noted the companies ambitions in respect of having a top level domain, dot Amazon as the opportunity to innovate and to contribute to the global economy through innovative e-commerce mechanisms and communications under the domain worldwide. We all know that Amazon has been in the vanguard of transformation of the retail sector worldwide with new technologies coming to change the whole environment in which people buy and sell and pay for goods and services.

I also noted that your company has made a proposal and it is welcomed in particular by Brazil, and that is based on genuine intentions to find a mutually agreeable solution. I think that's well noted by everybody in the room. I also noted that we've referred to different linguistic formulations in the context of this discussion, Amazonica, Amazonas, Amazonia, and I very much hope that the proposal does form the starting point for identifying such a mutually agreed solution and I welcome the opportunity that you're presenting to the governments in the Amazon basin region, to discuss that and to look at mechanisms such as the public interest commitment which will give the

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opportunity to ensure that there will be no confusion or mitigate the risk of confusion, and that provides the mechanisms for resolving confusion or abuse, or issues that come into conflict with the companies ambitions for dot Amazon and the public interest that the governments in the region have rightly identified in this discussion.

That's our position really from the... I am speaking as the UK representative, not as the vice-chair of the GAC. I very much hope that this dialogue and exchange today will form the basis for further consultations and that such a solution can be found that protects and reflects the political sensitivities that the governments in the Amazon basin region have articulated, and also serves the best interests of the company and its consumers, and its workforce worldwide. I just hope that we can actually proceed on that basis, having considered all the factors that we are now taking into account. Thank you.

THOMAS SCHNEIDER: Thank you UK. Nigeria.

UNKNOWN SPEAKER: Thank you chair. First of all, I would like to say that we stand with the GAC position on this issue, because we appreciate the complexities of the issues in discussion. However, when I saw

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this agenda and the opportunity for this meeting and the agenda for the event, I stayed back, instead of attending some other interesting events because I put on my solutions cap. I am someone that believes we can have solutions and I thought that someone had actually thought through and had an opportunity to present a win-win situation, and I wanted to listen to that.

I am sorry to say that having listened to the presentation, the representatives seem to have blown this opportunity by in the preliminary arguments made, trying to essentially belittle the reasoning behind the GAC advice. I think that was the wrong tactic, especially given the fact that so many countries involved. There are a lot of meetings and talk before the GAC advice was made, you shouldn't have gone along that track at all. But still, I don't think the opportunity is totally missed, you have already made some proposals, and I think you can improve on that. For instance, in my mind, I want to imagine that Amazon is a unique and innovative and big company, I am sure that you are not trying to use dot Amazon as an opportunity to registry domains and make money off of that. You want probably to use it to improve on your innovations and do better business. If that is the case, I am sure there will be a limited amount of names that you are going to register on the dot Amazon. Along with the proposal that you made about assisting with the registration of dot Amazonia, and so on and so forth.

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I think if you go offline and meet with the ACTO, you can develop this proposal further and instead of the way you have put it, it should be such... instead of saying that culturally sensitive names will be reserved or whatever, I think you will stick to the fact that the names that are useful to your business, that will be registered are the ones that you will register, and any of the regional countries and the ACTO as an organization, or whatever, probably you can say are free to register names that are useful to them as a region on this same TLD. I think if you go with that approach, it could be a win-win. I also agree with Iran, to say that this is not the forum to have this conversation, you can go with the countries and they have a regional organization, the ACTO. You need to be more open in your proposals and I think you can still make this work. Thank you.

THOMAS SCHNEIDER: Thank you Nigeria. Next is Russia.

UNKNOWN SPEAKER: Thank you. I will speak in Russian. As the representative of Brazil mentioned, we have two opinions today and two sides of this opinion. On one hand a corporation, which we very much respect Amazon, they have a very large client base, 3 million clients as they mentioned in their presentation, but on the other hand there are 8 countries. There are interests of these 8

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countries, and there are 350 million, or if I'm not mistaken. Russia is not a member of the Amazon region countries, but as Portugal mentioned and we share this opinion, if we speak of a geographic name, for any government, it is an extremely important and sensitive topic. If we do not resolve this issue with Amazonia, it will have difficulty with similar issues in other regions in future. That is why with great interest and great attention, we are following this discussion.

What is our opinion? We believe that ICANN cannot consider the application for Amazon, without the consent or coordination with the respective governments which believe that this is a geographic name which goes with their region. Since GAC has an opinion on this issue and there was a number of consensus based recommendations on this issue, we believe that the opinion of the governments has been formulated. In the circumstances where IRP makes the decision that the GACs opinion was politically motivated, we along with Brazil believe that this is an unacceptable situation and it causes us to fear for the future, because any decision of GAC may be interpreted as a politically motivated one, and this goes to the role of the governments in ICANN and within the decision or resolution of any issues that have to do with the activities of a corporation. We believe that Amazon should be flexible in this issue, and they should make steps towards achieving agreement with these 8



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countries instead of trying to prove that this name has no relation to any geographic or is not a geographic name. Thank you.

THOMAS SCHNEIDER: Thank you Russia. Maybe for the history and those who haven't been there around when the discussion were held from 2006, 7, 8, 9, 10, 11, 12 and so on, about the applicant guidebook. There are these famous principles that the GAC elaborated in 2007 on new gTLDs who were one of the key bullets says that there should be adequate protection of cultural, geographic, and other names of public interest.

That is something that I think we hear is still a fundamental issue, not to governance only, but to the people that the governments are supposed to represent. The applicant guidebook which has also been referred to as a process, was a compromise in the end, made through a process where the GAC did not receive the level of protection for such names as it had asked for. There was limited to these lists of countries, of capitals, and of regions, and didn't go further as the GAC had advised.

On the other hand, that was part of the informal compromise package there was this clause that if the GAC had a consensus objection on something that would create the so-called strong

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assumption, which was like a not an explicit veto, but a backdoor for all kinds of cases where it was felt there were no lists available or no clearly defined separable groups of names. I think we've realized altogether that this has, there are some challenges to this working methods, because things have not been clear apart from those names that were on these lists. What would the strong assumption mean, how should it work, and we have had different interpretations. You also it with the IRP and the reactions to the IRP.

I think what is clear, is that we've all recognised this, is several stakeholders may have different interests on the same name or on the same group of names for different reasons and the first point is to actually acknowledge that this is the case. Then to try and find ways to mediate or identify solutions that may create win-win results if this is possible. If not, then to maybe find other ways to solve the problem in a way that is acceptable to all parties. So, I think the learning from this exercise and looking forward for the future rounds, would be that a better mechanism could be found to early identify interests, stakes, concerns, and so on. The idea of this repository that has been brought in, would be something that I think is worth considering in details. That doesn't mean that whatever is brought up to the surface, the fact that it is brought up to the surface should create any rights, but it's a notification and an alert and awareness

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raising mechanism that would help people to get together and maybe try to find solutions.

One other element I would like to mention is this discussion about who has what right on what has been mentioned, there have been several experts that have been consulted from different backgrounds with different affiliations, whatever you call independent or not independent. This is a discussion per se, one of the experts that have been cited by the company but also by Brazil, for instance, that expert looked at the question of rights solely from a point of view of rights on geographic names and rights on intellectual property, and the findings there are based on this reflection. Whether other rights, or other stakes, or other interests, he did not look.

Also, there I think and it has been said, we need to be cautious that we cite things that we don't make the discussion more difficult. Because if we are too selectively work with experts and their findings, that may actually not help us to create a trusted environment. Maybe this discussion about rights is one thing, but the willingness and I think I hear in a sense the willingness here and I'm trying to build on this to sit together, to find a solution, that is acceptable to all and not spend millions of money on lawyers about fighting about what rights you have or you don't have, I think is probably the way forward in this case. We have to, and this has been said by many, we have to think

about how to create a mechanism for future rounds that would minimize this approach that we've witnessed in this and other cases, but would facilitate an approach where people get in a trusted environment, trusting in the process and this is not the fault of the company or of the governments, it's just a historical fact that things have been developed in the past, the way they have been developed based on the experience that the people have had. Then we would maybe develop the applicant guidebook slightly differently now with the experience of the first round. I'm trying to help us focus on how to get to constructive solutions and I urge everybody to concentrate on the elements, on identifying elements that may be part of a constructive solution in this case, but also with a view to future cases.

We do have like 15 minutes left, and actually I think we understand the exchange with Amazon was not 30 minutes, but 90 minutes. This shows again that GAC agenda is a living document, a work in progress, that sometimes needs to be adapted according to development because we are all human beings that are not 100% able to predict the future, but as long as we try to learn, we sometimes actually to get somewhere. I see a lot of hands, I would like to try and keep you short, in the sense that concentrate your statements on a dialogue with Amazon, things that you would like to know, or tell them. We'll

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have another session where I invited also based on the board resolution from this morning, to see how we as GAC and members and observers in the GAC move forward within our own silo but try to focus on an exchange, and then before I think we should give a few minutes to the representatives of the Amazon company to be able to give some feedback.

I see Luxembourg, please hold your hands up again, Pakistan, China, Peru, Mexico, and Iran, and EU Commission, and the Netherlands. So, 7 and Brazil. Basically, that would make something like one minute thirty for each of you, if we want to stick to the timeline. OK, let's start with Luxembourg. Thank you.

CLAUDINE:

Thank you. My name is Claudine [inaudible] from Luxembourg. I remind that in 2013 the GAC advised ICANN board to not proceed beyond initial evaluation with several strings with similar but perhaps inherently different problems, like Persian Gulf, [inaudible], Amazon, [inaudible] and so on. At that time, along with all these cases, Luxembourg assumed there was no agreement possible between parties and followed the general conviction that delegation would have serious consequences for public interest. Now, if we had this positive experience of Amazon coming to our meeting and presenting us a compromise solution comprising of public interest commitment to concerned

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countries, and I think that this new context should give subject of discussion and I was very positive to hear that Brazil expressed that there could be room for reconsideration. As well, as regards to July IRP, Luxembourg thinks that we should play in respect of the rules and procedures in place. The IRP instrument has proven generally in other cases in the past. We would like very much to stick on this rules and not to create specialized procedures here and other procedures somewhere else. Luxembourg would of course encourage a settlement solution in the present case. Thank you very much.

THOMAS SCHNEIDER: Thank you. Pakistan.

UNKNOWN SPEAKER: Thank you Thomas. Pakistan agrees with the reservations of Brazil, Peru, Portugal, and Iran on Amazon dot Amazon, and I suggested that the GAC members should be taken from all the GAC members on board, instead of concerned countries from the specific regions. Someone knows there's Caribbean countries members should be taken on board. I recommended that all the GAC members should be taken on board, to basically safeguard all the communities interest. The possible way forward to mitigate such challenges is that there may be early engagement among the stakeholders and preparation of

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appropriate [inaudible] for new gTLD procedures in the second round of the gTLD application. Thank you.

THOMAS SCHNEIDER: Thank you. China.

UNKNOWN SPEAKER: Thank you chair. I will like to look at this issue to put forward suggestion in my personal capacity, from what I look at this issue, I have learnt that this discussion is long story, long history, to be honest I am not quite familiar with the long history of this discussion. But from what I look at this issue, I think, I suggest that Amazon the company, I will suggest to respect the rights of the 8 countries which are around the river of Amazon, because it is a geographic name. The river of Amazon does exist from the ancient times and then people of the 8 countries are living there and giving birth to babies there, and to they are living there from ancient times. I think it's... I suggest the Amazon company respect this aspect of, from what I look. Another thing I think that when Amazon is the TLD of Amazon, the specific TLD, from what I look, perhaps Amazon want to use it as for its service, like big data, like cloud, or kindle. I think perhaps there will be a limited use of this TLD, to register a member of second level domain name to promote the service and the service of Amazon. I think there is a high change to reach agreement with the 8

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countries is the South America, which are around the river of Amazon, because I think the countries put high emphasis on the culture aspect and the geographic aspect of this name. This is my humble suggestion. Thank you.

THOMAS SCHNEIDER: Thank you China. Next is Peru.

UNKNOWN SPEAKER: Peru speaking. I am going to speak in Spanish. Taking stock of what has been discussed here, obviously, there are still issues to be discussed in future rounds, the specific weight of GAC as a result of this case. But going back to the specific issue with Amazon, let me say to the Amazon representative the following. You are American, you have no idea of what a social conflict in Latin America looks like. Let alone in the Amazon region. I imagine that you are willing to take the cost of the social conflict resulting from this issue. I am not guaranteeing or ensuring that this is going to happen, but I know my people, and this may happen. Let me be clear, today I told you about this publically. Thank you.

THOMAS SCHNEIDER: Thank you Peru. Mexico.



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UNKNOWN SPEAKER: Mexico speaking. Thank you good afternoon. I would like to thank the representatives of Amazon for their presentation, I think this has been very useful. I would also like to share with you a few thoughts regarding the internet. Everything moves faster than we imagine on the internet, and in order to get to a good settlement of this issue, I think it is important to take care of the content, the forms, and timing. Having said this, Mexico supports the position of Brazil and Peru, and we hope we can get to a satisfactory solution that will take care of the precedence, not only within ICANN, but also within everything that has to do with the use of geographic names and cultural references. Thank you.

THOMAS SCHNEIDER: Iran is next.

UNKNOWN SPEAKER: Thank you chair. I understood the intervention of distinguished representative of Luxembourg and the United Kingdom. It does not mean that we try to generalize the situations and we just treat it on a case by case basis and based on its merits, and leave the matter between the 8 Amazon countries and the company to discuss whether it is agreed or not. No matter what agreement

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will be reached, will not be used as a precedence for future at all. This is very important and we want to reiterate that for second or third time. I wish also to say that it is better than to not mix any other string with what we are discussing now. We are dealing with only dot Amazon, and nothing else. I don't understand the intervention of some people going to the other strings which may not be relevant at all. Thank you.

THOMAS SCHNEIDER: Thank you Iran. European Commission.

UNKNOWN SPEAKER: Thank you chair and thank you also to the Amazon company for the presentation. I will not take a long time, just to echo some of the remarks and comments that have been made here. On the one hand I understand the frustration on both sides, this has been really a lengthy process and it's due also to the fact that we are moving ourselves in new waters, in a way. I think it's clear that this is a particularly sensitive case, because it touches on how geographic names are dealt with, and of course, this is an area which is important for governments. Beyond the specificity of the case, we are conscious of the broader implications that this case might have and that we don't want to have as the colleague from Iran was saying, these implications are there and it's not just about setting a precedence for future similar cases,

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but also on how the board is taking into account the GAC advice. We have to be very careful on that, because these in itself has broader implication on how the multi stakeholder approach to internet governance works. What is the role of governments, what are we doing here in this room. That is why I would like to echo what the chair was saying, it is really important that solutions are found to the case, and this can only happen if there is trust, an open conversation, and if solutions are found that are acceptable to both parties. Thank you very much.

THOMAS SCHNEIDER: Thank you. The Netherlands.

THOMAS DEHAN: Thank you chair. Thomas Dehan from the Netherlands for the record. Thanks Amazon for also the courage to enter the cage of the lion, in this sense. First, I won't repeat many things, but I would really like to echo the remarks from the UK, Luxembourg, and Brazil in the first intervention. The one to really express a dialogue, express some interest in coming to a solution. I think this is very [inaudible] basically. I think also the chair, I echo what you say. We are in a multi stakeholder environment, this is our job basically, we are here to find solutions for different interests, this is our job mainly. I won't repeat all this, but I think one thing is very clear, for the Netherlands at least, we base our

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advice on the circumstances in that moment. Meaning that to our appreciation, there were not enough safeguards in the application from dot Amazon. There were very substantial public policy concerns. Seeing your new solutions, I think this is really an entry to come to some sort of a solution which for the Netherlands, at least as an appreciation, could have some viability. I think this is something to be, there are still some [inaudible], there are something for discussion in the GAC and I just want to repeat our GAC advice was based on the circumstances then, and we should evolve with this case and take onboard all new initiatives for trying to have a solution on this case. Thank you.

THOMAS SCHNEIDER: Thank you Netherlands. Brazil is the last one, and then I think we should definitely give the floor to France, in that order and then I close the list, Ukraine, then I close the list after Ukraine. Thank you. Brazil.

UNKNOWN SPEAKER: I could speak after France and the Ukraine.

UNKNOWN SPEAKER: Thank you chair and thank you Brazil. I will be very brief since we are way beyond schedule. I just wanted to thank them as a

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company for joining us today in the lion cage, as someone else said. I also wanted to put on the record that France supports what was said by Peru, Brazil, and other countries regarding the importance of the cultural aspects of geographical names. It is obviously very important for the GAC, and I would also like to join other countries, that say given the context of ICANN multi stakeholder model. I would advise that the company and the concerned countries try to work together and further negotiate in a respectful manner and in trust and hopefully we can reach mutually acceptable solution. Thank you.

THOMAS SCHNEIDER: Thank you. Ukraine.

UNKNOWN SPEAKER: Thank you chair. I'll share some awareness on the issue, that it is not only the geographic surface it is go... there is an ancient history of some European and Asian nations and actually why they [inaudible] and that region was named as Amazon. [inaudible] a Greek historian, give the light conversation on the fifth century BC, and I think this also should be included in the phase of discussion as this name and the history of the female warrior tribe is related to [inaudible] region, and it should be also discussed on the cultural and historical surface. Thank you.

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THOMAS SCHNEIDER: Thank you. Brazil.

UNKNOWN SPEAKER: Thank you Thomas, thank you for giving the floor again. Maybe I should start by the [inaudible]. In regard to the comment that was made by the Ukraine, I think it might be very interesting to engage in scholar discussion on this, but if we want to get some practical solution, I think that kind of bringing at that late stage, some other elements might further complicate things, rather than lead us to some kind of solution.

My assessment is that in the light of everything that we've heard there are two different levels of considering this. I take the point that was made by Iran and others that, if we look at this specific case and again, I'd like to thank Amazon for making the proposal, but I think it is [inaudible] to the interested Amazon countries to look into it. I am a disciplined civil servant, so as I said, I am guided by a decision that was made by the ministers, that in my view provides some room for that kind of dialogue. I'll be more than happy to bring it back, together with other member states representatives, make sure that this will be conveyed and duly considered.

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My only concern, as I had expressed before, is whether there is anything new in regard to what was considered before. That would give us the opportunity to come back and say we have been there and we have now something different we'd like you to consider again. Again, it is not something we can as representatives here, offer you a direct answer now, but I commit to work with colleagues in that regard. Also in regard to the specific issue, one thing I forgot to mention, in my first intervention. We are acting as government representatives, but I would say at least on the part of Brazil, but I think also it's the case of other countries, the concern around this issue extends much beyond the governments. We have had public hearing in congress, congressmen coming from the region that made public hearing, and in that course there was an expression of concern and our senate committee on foreign affairs made a unanimous decision also endorsing government's initiative.

Also, there was some community route movement and there was some, I cannot mention exactly how many entities or individuals that were involved, but there was some movement in that regard. Maybe more importantly, I should mention that the CGI.BR the Brazilian internet steering committee, that as you know of course is a [inaudible] stakeholder body, that involves not only government but also civil society, business sector, academic and technical communities. By unanimity endorsed

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the government's initiative. That dates back to 2013, but was also renewed after the RP final declaration, so just to make sure that it is not only something that concerns governments.

The other level that I think was mentioned by others, is if we took a broader look at the issue, not only the specifics of the case but there is a concern, and we share this concern about the precedent, this is set in regards to how the GAC advice is treated, how it should be conceded or come back for the GAC to reconsider. It is kind of policy and procedural aspects that are very important, I think, to all of us and when we think about the rules that we govern the next round of gTLDs, as it has been stated we work on the basis of a set of rules that provides some kind of compromise, when we are starting to look at what will be the rules for the next, it is very important to, I think for all of us, to understand and I take the point that was made by the chair, according to even the formation of who looks at it, even from a legal point of view, there are different interpretations. I would for example [inaudible], that the three panelists are US nationals, that are practitioners of US law. There we have no other nationality represented in the panel, and no international law experience there. In a way, it provides some kind of solution that might be different if the formation was different.

One of the experts that you mentioned, the party mentioned, there was no legal basis for protecting, but at the same time



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there is no legal basis for delegating We are in the kind of grey zone, but lets not forget that international law is not something static. It is continuously evolving, at this very moment at [inaudible] there has been some discussion on geographic names, what is the scope, the extent. It is not something that is not an argument to say there is nothing in existence so everything is allowed. We must be very careful and I think this is part of a wider discussion that interests all of us. Again I would like to express my sincere appreciation for you coming here and allowing for this conversation, I think that might be very good assistance in moving forward. Wishfully to find the magic formula we have been looking for so many years. Thank you.

THOMAS SCHNEIDER: Thank you Brazil. Let me get back to the representatives of the Amazon company for some final remarks. Final remarks for today, notably not for the continuation of the dialogue. Thank you.

UNKNOWN SPEAKER: Thank you very much for the GAC for allowing us to come and speak today and listen, and to start this dialogue. I think it is a first step in continuing the dialogue and we look forward to finding a solution that works for everyone. Something that we've been striving for, and I think we've been talking for a while and

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this would be a great opportunity to do that. Also welcome anyone who has more comments, suggestions, maybe they have the secret formula, the magic formula to solve this. That would be great to hear from anyone and everyone, to pick the collective brains of everyone. Thank you very much.

THOMAS SCHNEIDER: Thank you all, that's the end of a very interesting session and I think hopefully it's the start of a solution. I think there are some elements that we can use, so this is the coffee break. Thank you all.

**[END OF TRANSCRIPTION]**