

KOBE – GAC: Follow Up on Specific Issues
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MANAL ISMAIL, GAC CHAIR: So we will be starting on the two-character codes. If we can have the slides on the screen, and Thiago on the panel.

So thank you, everyone, and welcome back to the room. We are having our discussion now on three items that fall under the follow-up on previous GAC advice. As I mentioned earlier this morning, we have scheduled the agenda by blocks so this block is scheduled from 3:15 to 4:45 and we'll be covering three topics, the two-letter codes, the IGOs and dot Amazon. We will start with the two-character character codes and we have our top lead Thiago, GAC vice chair and representative of Brazil. So over to you, Thiago.

THIAGO JARDIM: Thank you very much, Manal. This is Thiago speaking, for the record. So to start with this packet of three issues of interest to the GAC, two-character country codes. I will go briefly through the slides and open the floor for questions if there are any.

To those who are new to this, the current situation regarding the use and release of two character country codes at the second level of the new gTLDs is as follows, the current regime allows for registry operators, register registries to register and will allow the use of country codes at the second level without need of obtaining prior authorization,

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without need of notifying the relevant two-character code managers or governments, without need of prior consultation; this is the current situation.

This current scenario has been the result of blanket authorization issued by the ICANN board on the condition that the registry operators were to adopt certain matters to avoid confusion with the corresponding country codes.

This happened more precisely in 2016. During the last ICANN meeting we had the opportunity to discuss a briefing we prepared on this issue which indicated that there remain a number of concerns in relation to this current process. The reason these concerns were still there is because many GAC members perceived that the blanket authorization issued in 2016 that established the current model for the use of country codes at the second level changed something that existed in the past and that was spaced in the perception of these countries on GAC advice. The procedure in the past required that countries, two-character code managers, that governments consulted and notified before their country codes could be used.

In front of you have the concerns identified in the briefing we discussed in Barcelona. The different concerns regarding the release of country codes at the second level included number one, countries losing their ability to play any role in the release procedure. Second point, the ICANN board, when the ICANN board decided that the procedure should change from a procedure where governments had a role to play to a procedure where governments were no longer consulted or notified, for

many GAC members the board failed to provide a satisfactory explanation.

And the third point, the board did not adopt any measures to prevent further consequences arising from the change of procedure.

In the briefing we discussed in Barcelona, prepared again with the help of many GAC members, it was considered that there were serious procedural flaws in the decision-making process that led to the change in the release process for two-character country codes. Number one, the board adopted a decision that significantly affected a process that was subject to GAC advice, in particular GAC advice that was still pending. And number two, the board adopted a decision that in addition of affecting a procedure subject to GAC advice and pending GAC advice, that decision subsequently affected a process and changed a process that was established because of GAC recommendation.

Another point that was identified is that -- and adds up to the procedural flaws that are perceived by many GAC members is that the decision adopted by the board in 2016 was over a procedure in respect to which there remained a number of uncertainties. It's true that even for some GAC members we lacked clarity about what was at stake so it was believed that the board should have had at least communicated with GAC to clarify these uncertainties before adopted a decision on the matter.

So the conclusion that we arrived at as portrayed in the GAC brief discussed in Barcelona was that the removal of the authorization process in 2016 was inconsistent with GAC advice for a number of

reasons, one, GAC advice recommended the establishment of a procedure where governments should be consulted and notified before the release of their country codes. The ICANN organization developed a procedure called the authorization process precisely because of GAC advice and it stated it did so to implement GAC advice notwithstanding these two factors, the board did change that authorization process and retired it on this specific basis it was and might still be thought that the removal of authorization process was inconsistent with GAC advice.

Latest developments. On the base of the brief, the main points on which I just trade shared with you, the GAC in Barcelona thought it would be a good idea to advise the ICANN board on this subject and what the GAC did was ask the board please do explain to us in writing how and why you can consider that you have been implemented GAC advice on this issue. Request number two, we asked the board to explain in writing again whether the resolution that changed the authorization process was, is compatible with GAC advice, narrowed down the request for explanations to the question of whether that decision was compatible with GAC advice on the topic.

And the third question, we advised it wasn't a question. In fact it was a request for active, positive action and the request was that the board ensures that the previous GAC resolutions on the issue calling for engagement between the ICANN organization with the GAC consent members be fully implemented so we ask that request for direct engagement with the concerned governments be implemented to the concerns of these countries can be fully addressed.

Because of our GAC advice, the board reacted and released a document days ago, large one idea, in response or allegedly in response to our concerns. So to try and answer the many requests we made in our advice the board produced a memorandum of the implementation of the release process in which there is a succinct explanation of events leading to the changes in 2016, changes which culminated in the retirement of the authorization process so government no longer had any role to play and the memo also contains a point by point response to the ICANN63 briefing, so the briefing in which we came to the conclusion that the board did not respect GAC advice.

And the board in addition to this memo also prepared a historical overview of events, 26 pages, in which it presents background and developments leading to the board resolution, probably in more detail than the memo itself. It tries to explain how GAC advice was addressed and contains also a record of communications with the GAC governments and ccTLD managers and then after that on 27th of January the board addressed the GAC advice in its resolution as laid out in the board score card.

I don't think there is any slide that we have prepared in which we can see board response to the different GAC advices, right? Okay. So if we can go back to the previous slide before I move on to the next one, so we had this in front of you, it's basically what is the response for our GAC advice. I would invite any interested on this issue to look at the board scorecard in which it explains how our requests should be answered. I'm making this invitation to you because I think we will have

to ask ourselves whether these explanations are enough and satisfactory, and we should put this matter to rest once and for all.

But also there is another aspect to the concerns of countries that was addressed, not by the responses themselves to the questions we asked. Another aspect of the concerns related to the request by some countries to have a tool in which they could monitor the use of their country codes at the second level. So this led to this response from the ICANN board that is portrayed in the slide currently displayed. So on 26th of February the ICANN organization introduced the country code registration search tool, available on the GAC website so any country representative within the GAC wishing to have a look, see how many numbers of their country codes have been recommended as second level domain names -- and I think any gTLDs, they can access the website. This tool is yet being perfected, and apparently welcoming feedback from the GAC members to see if this is of any use to them, to us.

Next slide, I think last one. Proposal for GAC action. So the question that we have in front of us is are the concerns that GAC as a whole and specific GAC members on the question of the use or release of their country codes at the second level addressed fully addressed by these recent developments? Are we satisfied with the answers provided by the ICANN board? Are we satisfied with the tool that has been put in place, so members can check and see whether there is anything wrong about their country codes being used at the second level? Basically I think this is question we should ask. My impression is that we might not be in a position to answer these questions without going through each

of us specifically in necessary detail in the documents that the board prepared. I haven't myself had the time, I must confess, to read the almost 50 pages written by the ICANN board on this issue. And perhaps we could ask for a shorter version of their sports.

So this is it for this initial presentation. If there are any question or comments, we would be happy to hear you. Thank you.

MANAL ISMAIL, GAC CHAIR: Yes.

GUO FENG: Thank you, Manal. China, for the record. My thanks goes to Thiago for your excellent work. And I also appreciate the procedural clarification regarding the two-character issue in the past several months done by the ICANN board and ICANN org, and I think the only tool about checking the two character at the second level is also useful. Which is a good approach. It is step forward. However, to respond to the last question on the last slide, I would like to express that the two character for many GAC members is a substantive issue, at least for my membership for China it's a substantive issue. And we can always clarify the procedural side but I think this issue is substantive issue.

In terms of how to proceed with this discussion, I have no good idea at this moment. So I would like to seek ideas from any GAC member who can come up with new constructive ideas. My point is that we should prevent this from entering into a deadlock. That's basically my point at this moment.

MANAL ISMAIL, GAC CHAIR: Thank you, China. And like Thiago mentioned, I think the way forward now is to read the documentation that was submitted in response to our GAC advice. Also to try the tool, because we are seeking feedback on the tool. There was a webinar organized on the tool immediately before coming here to Kobe for those who didn't have a chance to participate or join the webinar, it's recorded so please listen to the recordings, try the tool, read the documentation, and we have agreed to have Montreal as our milestone for final feedback on this but definitely will be gathering feedback throughout the coming months between now and Montreal.

DENMARK: Thank you, Manal. And thank you to Thiago for the presentation. When you presented it, I got the feeling that you said that GAC have determined that there was inconsistency from the board with the GAC advice. I don't think that was the result. I think what we did and what you put there, we put certain questions to the board to see whether there might be certain procedural mistakes so we haven't as GAC determined anything there. I have read the board papers. I must admit that they are long, it is not clear -- I also think the paper which we as GAC produced -- or you produced -- altogether was not sufficiently clear. So if we should go further, there is a need to have a real two paper [indiscernible] to see if there is any procedural failure from the board. If there is, that will be of great concern to Denmark but we're certainly

not in a position anyway to say that there is any procedural mistake now. Thank you.

THIAGO JARDIM:

Thank you very much, Denmark, and thank you for your comments and your question. If there was a question in that which allows me to clarify before what I tried to say -- and in fact there is one slide in there that says somewhat categorically that the retirement of the authorization process was inconsistent with GAC advice. But the point was and is that the -- this statement was one contained in the brief that we prepared and more specifically myself as GAC vice chair and GAC gave on this topic with the help of other countries that were free and contributed to the discussion.

Again, this is a statement that remains true for many countries, in particular the countries that participated in the production of the document but not necessarily reflect GAC consensus on this issue but this briefing was submitted to the ICANN board for consideration and the request that the GAC as a whole made to the ICANN board and is the GAC advice from Barcelona is that the board should explain how the process that led to the retirement of the authorization process was consistent with GAC advice.

Obviously, this is a neutral question and doesn't prejudge the question of the lawfulness, so to speak, of the retirement itself, so the GAC wanted on the base of the briefing that reflected the views of my countries to know the opinion of the ICANN board and the board's response to that request which led to these number of pages on this

issue. To sum it up, basically they say that the briefing got it wrong. So for many countries that thought that the retirement process -- retirement of the authorization process was contrary to GAC advice, their opinion in the board's view is not substantiated.

So there we are, we have a number of GAC countries who have expressed concerns who think one thing about the lawfulness about what happened and the board in its answers saying no, they got it wrong. Basically this is where we stand. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Thiago. Any other comments or requests for the floor? Yes, Kavouss.

KAVOUSS ARASTEH: Yes, good afternoon to everybody, just coming to this meeting. Thiago, thank you very much for the very active work you have done on this. I have read the reply from ICANN board but not the 26 pages of supporting material. I could not say at this moment point by point a clear reply because I need to carefully study those, but I don't think that they have changed the positions. The position is exactly as it was before. They decided to change the process in November 2016, and they continue to sleep on that and say that is that. But in order to carefully examine, we need time. Unfortunately there is a lot of work, a lot of pressure on all sides on other activities that perhaps did not allow us to.

I suggest to the chair that at this stage we do not react quickly either positive or negative; we say we are considering the letter due to its complexity and volume of the supporting material and the severity of the subject, we need time to analyze that and we come back to you as soon as possible. I'm sorry to say this word which I don't like, as soon as possible, but that is that. We can't do anything.

But I read that but from the very preliminary reaction I was not -- talking about myself, personally -- convinced that they have done anything more than they have said to many, many years, that they didn't want these authorizations and so on, they changed it to put it either to the confusion process which I don't understand what it means, who decides there is confusion, who decides the confusion has been removed and so on, so forth. Don't want to say anything on either side but we need to carefully study the case, Madame, thank you.

MANAL ISMAIL, GAC CHAIR:

Thank you, Kavouss, I agree we need more time. I'm sure not everyone had time to go through the documents so I agree with everyone, we need time to read the document, read the scorecard if needed, and again, try the tool, listen to the recording of the webinar, come back with questions or feedback. And then as I mentioned earlier, we have Montreal as our milestone so we still have a few months to discuss and decide. But I would urge everyone that we don't get stuck in the history. So this is more of background for everyone to know where we are coming from. But also try to be forward looking and try to find satisfactory way forward for all concerned GAC members.

If there are no other requests for the floor... maybe we can -- yeah, sorry, France.

FRANCE:

Thank you, Manal. Quick, I would like to say that we agree with Thiago on the issue of the process itself, certainly many flaws in the process of the decision by the board to end the authorization mechanism. Many countries in the GAC I think share the views, even though as Denmark pointed, there was no consensus in the GAC to support the views and the board disagrees, so we might want to go on and talk about this issue for a long time.

But I think I agree with Feng that we focus on the substance and have a forward-looking approach to the problem and when you remember substantive [indiscernible] maybe there was a risk of confusion for users used at the second level and now we have a tool designed by ICANN org for members to be able to check if the second letter's code being used on what TLD's and if there's risk of confusion to maybe in our next meeting in Montreal or [indiscernible] we might have an update from ICANN org to say here have been the countries checked and use and has there be confusion identified or not and then we can see having a regular update on that to see if there's a risk and if there's a risk I think what the contracts of the registry says that the registry has to take some measures to reduce or suppress the risk of confusion. So I think we should try to focus on the tool and see if it helps us or not to manage those risks in the future. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, France. I have UK next and then we need to move on.

UK: Thank you, Manal. Paul Blaker for the UK, for the record. I won't talk about the substantive issues now. Just wanted to ask a question about the status of this presentation which has the ICANN GAC logo on the top. I think we've heard there are some questions about some of the things in the presentation, whether it's talking about all of the GAC or some members of the GAC, for example. So I just wanted -- this presentation is not being endorsed by the GAC in any way or doesn't have GAC status, it's just a presentation from our vice chair and wanted to check that this was an understood, a shared understanding. Thank you.

THIAGO JARDIM: Thank you, UK for your question. I am looking at GAC staff. Perhaps they can help us here. I must confess, I think there's my name on the first page of these slides, even though I wasn't the one who prepared them. I have to look at them once finished but I try through my presentation to make clear that the in particular that categorical statement that Finn pointed to is portrayed as not necessarily a GAC consensus issue on this issue and the title of that slide refers to issues discussed in ICANN 63 in accordance with the briefing that I prepared myself with the help of other GAC representatives. So it is clear in the record, the statements regarding whether or not board action was or is consistent or inconsistent with GAC advice, these statements do not necessarily reflect GAC views on this issue but the views of some members who contributed to the discussions in Barcelona. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Thiago, and thank you everyone. Maybe we can move on now to our next topic which is IGO's and INGOs and can we have the slides on the screen. Please.

So yeah, I know we don't have OECD attending this meeting, not sure whether [indiscernible] yes, Brian, thank you, would you like to join us here. So moving on to the next slide, please. So this is a quick background just to make sure everyone is up to speed. IGO names and acronyms are subject to: [reading] [refer to slide].

So this is a quick background. If we can go to the following slide, please. So issues at hand are first: [reading] [refer to slide].

So those are the issues. If we go to the following slide. I think I have already touched on this during the previous session. [reading] [refer to slide].

So there has been some good progress inter-sessionally as mentioned on the slide. We have met in Barcelona with ICANN org and we have been granted resources for completing and making the list accurate. It's a three month project and it is led by Nigel Hickson in the room and working closely with [indiscernible] as well to complete and reach out to the IGOs so they can confirm the names as listed in the list but also the two preferred languages that they want to preserve their names in and Brian, please feel free to chime in any time.

So what is needed now is confirm alignment of current plans and am output to date with GAC objectives and also discuss the GAC's role on

the longer term maintaining this list. So this is a one-time exercise that we have given three months but obviously we may need to add or delete or modify things on the list. So this is what we need to think about in terms of keeping the list updated and accurate.

If we move on to the following slide, please. [speaker away from microphone] yeah, we have some statistics here and figures here helpfully provided by Nigel.

NIGEL HICKSON:

Government engagement government.org, this is a snapshot of this three month project which has been sort of explained essentially we are taking the 192 IGO names on a list that was originally compiled by the government advisory committee and of those names, we are looking to see for those names if we have contact details and where we haven't got contact details we have been reaching out to those IGOs to get the details, some we have emailed and some we had to call.

We then [indiscernible] letter with the help of our chair and the GAC leadership and WIPO and the e OCD and then we will effectively send this letter to all of the IGOs to confirm the name that they want to use for this protection at the second level. Because obviously it's very important that the exact form of the name whether an American text or Latin text or whatever text it's in is the name protected at the second level. And we also give the IGO the opportunity to have it protected in two languages, whether they want it protect indeed English, French, Spanish or whatever language. So that's the essence of this project.

Also there are some additional IGOs which has been identified since the 192 were identified in 2013. This is an intricate process, international governmental organizations come and go, not on a daily basis but they do change. So this is a project of essential -- to essentially update this list to ensure that the consensus policy as agreed by the community can be effectively implemented and in terms of the next step as I mentioned, the letter is issued to the IGOs that we confirm their name and the choice of the two languages. Thank you very much.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Nigel, and thanks to other GAC support who are working -- I'm sorry, ICANN staff who are working on this as well. Brian, would you like to add anything?

BRIAN BECKHAM: Thank you, Chair Manal, and Nigel. Wanted to affirm we have been making good progress with ICANN staff and appreciate the effort and resources they have been devoting, we've been able to roll up our sleeves and reach out to IGO for the full name protection issue. Manal gave a very good overview earlier and I would commend to you if there is specific interest or details, the briefing papers, item 2.2 in your briefing materials, the only thing I would add by way of background to the prior introduction, the current effort for providing a level of protection for IGOs in the new gTLD and the [indiscernible] stems from the details -- it was recognized that the process for introducing new gTLD, in particular rights in the names and acronyms of IGOs so this is a long-standing matter of GAC interest and advice.

To briefly dovetail on the idea of the list of the full names, and Manal mentioned earlier that the acronyms are temporarily protected by virtue of a board resolution and the log jam has been a working group under the auspices of the GNSO which came out with **dbi** does not reflect the IGO's unique status as international bodies established under the law nor does it reflect the global public interest.

On page four of the briefing materials there's a list of proposed GAC actions for this meeting and on page 12 there is a very useful list of briefing information that has been provided by IGOs throughout the course of this policy making process. So we are here this week to answer questions, to work with GAC leadership, with council leadership and there's a little bit of a chicken and egg -- we stand ready to assist and thank you for your support.

MANAL ISMAIL, GAC CHAIR:

Thank you, Brian, and for the transcript, the previous speaker was Brian from WIPO. So moving on to the other part of our discussion. Or our update, it's the IGO access to curative rights protection mechanism and starting with the latest developments on 17th July [reading] [refer to slide].

So going onto the following slide, as I mentioned earlier, this afternoon, we had the very constructive dialogue with the GNSO inter-sessionally between Barcelona and here. We had leadership call and we had another call with a few members from the GNSO and the GAC specifically on this topic. They have not taken a decision yet. They are engaging with us constructively and to take an informed decision. So

the options, they currently have on the table, they have four -- [reading] [refer to slide].

So those are the four option they are currently looking at and for the sake of our meeting with the GNSO on -- okay, it's tomorrow. They have asked concrete questions to the GAC that we need to think of and engage tomorrow with the GNSO and weigh in our views so that they can take an informed decision.

So questions are would interested parties among GAC members be willing and available to participate? Of course should they -- excluding the first option which is approve the final report, if we exclude this option and go to one of the other three, would interested GAC parties be willing and available to participate? Does the GAC have views on the efficiency of the recent experiences in in the EPDP -- does the GAC see the rpm PDP as a potentially suitable venue, [refer to slide]. So I am putting up those questions now for everyone to sleep over and to think about GAC views on this so that we can have a fruitful and interactive discussion with the GNSO tomorrow.

As I said, they have been very constructive and very willing to hear from the GAC and they need just any signal that we are interested to engage in this. Do we have any more slides? I'm sorry. Yeah. So proposal for GAC action. [reading] so it's tomorrow at quarter past 3:00, [reading] so as I said, the main intention of this part is to bring to your attention the status quo within the GNSO and the questions to the GAC so that we are well prepared for an interactive and constructive dialogue tomorrow with the GNSO.

Brian, yes, please? WIPO.

BRIAN BECKHAM:

From WIPO, for the record. To follow up on questions from the prior slide on page 13 of the briefing materials, the first bullet there is an issue report from -- Related to that on page 12 in the middle is an IGO small group proposal. Mainly what this proposal sought to do is reflect using the existing uniform domain name policy design for trademark owners to provide a similar curative rights protection mechanism for IGOs that reflected their status under international law, namely having certain privileges and immunities from national courts.

And I think one of the core questions for the GAC is for the council to think about is we have in 2007 and in 2016 a proposed solution for this issue. Those proposed solutions were put before the working group that produced recommendations which go against GAC advice. And if I may be frank, our perception is that the council is choosing to rather whitewash the reality of what happened in that working group which produced recommendations which go squarely against GAC advice. This is obviously a bigger question for the PDP process for the multi stakeholder model but we believe it's important that that part of the process that led to the result that is in front of us is on the record. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Switzerland.

JORGE CANCIO:

Thank you, Manal. Jorge Cancio, Switzerland for the record. I guess -- and this is the opportunity we have to prepare this question. Because quickly looked at the agenda for tomorrow and I haven't seen whether we have preparation of the GNSO meeting. Okay. So I think we need to go into substance and really while I fully understand and support what Brian just mentioned, that is no surprise, we have been supporting the IGO position very consistently these last years -- I think we also have to go cognizant of what is the position of the GNSO council. And there could be an option that the GNSO council took a more substantial look into the report from the curative protection PDP working group, but they are not going to do that because they understand their rules has to be purely procedural. And as I understood the position from the GNSO council during the call we had where I was invited to participate, they very bluntly have two options. Either they go on with the PDP working group recommendations, look only at the procedure, turn a bit of a blind eye on what is the substance, or they re-command the work restarted in some fashion, be it in the same working group or a different PDP working group, in this case the rights protection mechanisms PDP, which is a very big thing which has many other topics to deal with.

So if we take this situation as more or less fixed, that the GNSO only has those two avenues of action, I think that we don't want the GNSO council to take a decision which is inconsistent with GAC advice. So we should advise against option one, which is approve the final report. And then we should I think advise that they restart the work. But this restart should be under certain conditions. And I think the questions from the GNSO council go in that direction. Okay, what could be the conditions

under which the GAC and the IGOs would participate in such a restarted PDP working group.

And I don't think it has to fully restart but probably it should return to the moment after they release the initial report or just before they release the initial report. And the conditions I think we should take benefit from the experience of other discussions. I don't know the discussions so well or how it is going in the EPDP but for instance in the case of the Red Cross, we had a similar problem but there the council already had decided over a final report and we had turn that back with facilitated discussion with Bruce at the time, very lengthy process because the GNSO council had already adopted a final report, so I think we I want to avoid that but we can learn from that experience, that in the Red Cross restarted PDP working group, what happened actually is that there were seven or eight members from the GNSO and one or two people from the GAC, including our colleague from the Red Cross, -- Stephen Hankins, and the rest of the members tried to understand what are the needs, interests and also the rights of the Red Cross under international law and public policy and that allowed to us reach a compromise.

So to sum up, a fair say, a fair voice, that would really help us to be at least for myself, amenable to getting to that option. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, very much, Jorge and thank you for the food for thought for everyone until tomorrow. We need to move on to dot Amazon. Do you have a quick intervention, Kavouss Arasteh?

KAVOUSS ARASTEH: Yes, a quick intervention that we need to understand each other's process and procedures. We have GAC advice and they have PDP. And each of us following our own ways. I think the most appropriate way at this stage to requesting or asking or urging not to go to vote to approve those and leave the room for further dialogue. I'm sure that we would reach some sort of understanding with dialogue in time. But asking them not to vote, take the motion from the vote for the time being and allow this should be a new PDP, whether EPDP, that is something we have to discuss but have to understand each other's positions thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Kavouss, and I think this is the type of discussion we need to make with the GNSO tomorrow.

GHISLAIN DE SALINS: France continues supporting the work of the IGOs and the work of Brian especially from WIPO. I agree that we should definitely not go with option one and advice -- ideally go with option 2, the other options being less ideal for GAC but tomorrow we will -- our meeting with the GNSO will be a good place to discuss all of this. I know we're a bit late already, so I will stop here and we can discuss it further tomorrow in the meeting with our GNSO. Thank you.

MANAL ISMAIL, GAC CHAIR: So very briefly, please, because we need to move on.

UNIDENTIFIED SPEAKER: One question. We have protection of IGO for TLD for two languages, is determined to be discussed [indiscernible] I wanted to know which one is our status now.

MANAL ISMAIL, GAC CHAIR: So you are asking which two languages?

UNIDENTIFIED SPEAKER: Yes, two languages or more than two languages, is it determined we needed a discussion –

MANAL ISMAIL, GAC CHAIR: It's up to each and every IGO to choose languages of their preference. So if you need more information on this, we can talk after the meeting if you wish. But each IGO can choose two languages of their preference. There are no fixed languages.

So with this, if we can move on to dot Amazon, please, and we can -- thank you, Brian.

So briefly, because I would like to give the chance to GAC countries to weigh their views here, it's very difficult to brief everyone on like a seven year process. So everything is available, all the material, all the letters, all the exchanges, and we're happy to provide or reference GAC colleagues who would like to get more information or more background on certain aspects of this,

But no now I'm sure you are all aware of the dot Amazon issue where there is an application from the Amazon company and there is a concern from the Amazon countries and in light of the ACTO questions, recent request on extension of the decision on the delegation of dot Amazon and recognizing the efforts to facilitate the mutually acceptable agreement [reading] the board will discuss the way forward during its morning session tomorrow but the board is committed to a transparent and fair process that takes into account the public interests of the people of the Amazonian, the board recognized that Amazon Inc. continues to participate and support discussions regarding the dot Amazon in good faith and remains hopefully that a mutually agreeable solution can be achieved during the next few months.

So as you can see the topic is still under discussion at the board. And we have also received this morning two letters that were shared on the GAC mailing list, one from Brazil, Colombia, and Peru and another letter from Ecuador sent on behalf of ACTO member countries. There were board discussions today. There is a board meeting tomorrow. There is a board meeting tomorrow and this is where the issue currently stands.

With this, we have also received a proposal draft communique language that I would appreciate having it on the screen. So this is a proposal from Brazil, Colombia, and Peru. Would you like to take us through the draft communique language? Yes, Ambassador [indiscernible]

BRAZIL:

Thank you. Achilles [indiscernible] from Brazil for the record. Apologize if I'm going to be a little too long but I think it's useful to set up the major lines of this problem. You know that GAC has repeatedly recognized that the dot Amazon strings are not like other top-level domains in even the Amazon company that applied for the dot Amazon strings recognized that the strings have a very distinctive character and in 2015 the company recognized the need to develop a mutually acceptable solution for geographical names

At the end of 2017 we at GAC decided to ask the ICANN board to find a mutually acceptable solution to the dot Amazon applications and the rationale of that advice the GAC recognized the need to find a mutually acceptable solution for the countries affected and the Amazon corporation to allowing for the use of dot Amazon as a top-level domain name.

Then a few months later, midyear, as a result of intense diplomatic work among the eight Amazon countries we reached consensus -- in September last year we took the initiative to send a letter it to ICANN board with two main points. First indicated that we are willing to accept a solution for the delegation of the dot Amazon strings around the concept of shared governance, end quote and second, we ask that we be given opportunity to meet and discuss with the ICANN president, so he can elaborate on details of an acceptable model of shared governance. Despite repeated calls to ICANN, the ICANN board adopted a badly worded resolution in Barcelona last year which stopped the process from starting. We need to request [indiscernible] and indicated the board respond to that request. The response only came late

January of this year just a little more than a month ago. It was only then that the board [indiscernible] its previous resolution lacked clarity. [indiscernible] for the necessary dialogue with the eight countries to happen. And since then we have again been asking the ICANN CEO to join us, Brazil, and all the Amazon countries in dialogue so we can work for a mutually acceptable solution. For various reasons, none of our doing, the dialogue did not happen in the sharp time frame available, little more than one month between late January and now.

And now, despite the particular that ICANN did not discuss this reversal, ICANN board is set to decide on the dot Amazon before the end of this week. We have been eager to discuss with the ICANN president about the concrete proposal for the sharing of the governance of the dot Amazon TLD's, basically, sharing the governance of the Amazon strings, would mean one, provision to allow control of Amazon Inc. -- two, each [reading] for instance those geographical names, historical or cultural relevance, political implications, three, committee would establish the eight Amazon countries would be given the opportunity to object while the Amazon Inc. would be able to expand its list of second level names. As you can see there is a concrete proposal on our side.

In 2015 in the [indiscernible] the barrier the company had formulated a solution along those lines. This proposal is substantially different to the one the ICANN president without having discussed first insists should satisfy the eight Amazon countries. Instead of shared governance of the dot Amazon top level domains, the company would give us some [indiscernible] in the second level minister. As you can see, previous GAC advice and the need to find a mutually acceptable solution, issued

in Abu Dhabi, including Barcelona has not been followed. GAC's weight on the Internet governance system -- this morning at the welcome session for new GAC participants there was a quiz. One of the questions was about whether the ICANN board has ever rejected GAC advice. The answer that was supplied to us, never. We would hate if the answer would change in the near future because of the dot Amazon issue. This could have systemic implications. We are not looking for financial compensation or after concessions to use one or [indiscernible] second level, it is a matter of sovereignty for many of us and the offer to share [indiscernible] already a compromise we achieved last year. Two important points. First, we have put forth a very concrete and practical proposal for the solution to be worked out, and second, we want this to be solved soon.

We can set for ourselves a strict timeline for the conclusion of this process. Therefore, we would like to ask the GAC to recommend to the board to give us an opportunity to reach the mutually acceptable solution for the dot Amazon implications, this implementing GAC's previous advice. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Ambassador Achilles. Any other requests for the floor? I can see, Göran Marby and USA.

GÖRAN MARBY: Thank you. If I may have the opportunity to give a response from me and the ICANN board. First, I would like to welcome the ambassador to

the GAC and to ICANN. And I can understand coming into this, it's a thing we've been talking about for the last seven years that not everything makes sense. Let me take a step back and just to put some points. The current GAC advice, which is the GAC advice about dot Amazon, is that we are going to facilitate a discussion. We know the interested parties. We started that immediately together with the countries, I think that the first meeting was in Abu Dhabi, and as the GAC well know, the ambassador came many times back to the back and reports progress in those discussions to the proposal that came up was actually made in discussions between the countries facilitated by ICANN org.

The board resolution that was made was made on the basis of those discussions. The board resolution said and gave me as CEO to meet with the ACTO countries and have a final discussion and come back for the final discussion by the board. The board has not changed or updated its decision after re[indiscernible] request. I have twice bought flight tickets for meetings with ACTO. First in I was supposed to go directly after Barcelona for a meeting with ACTO. That was canceled after the request was made that instructed me to go and negotiate. The second time I bought flight tickets to go with my team was to go to a meeting in Brazil together with the ACTO countries about a month ago. Last week Brazil as a country reached out to us after that and wanted separate discussion.

I think that the GAC remembers that Brazil before the end of last year criticized me for speaking to Brazil directly. We then contacted ACTO and asked if it was okay to speak to Brazil. When we got that invitation

we sent an invitation to the ACTO countries in Brazil for a meeting this week because we understood the urgency of the countries to meet with us. Unfortunately it was not possible for them to have that meeting with us.

The board wants -- in the statement has said is trying to find a solution based on the interactions between the countries and Amazon the company. And we've been continuing to do that as you know for the last 15 months. I can understand that the Brazilian ambassador doesn't know about all the [indiscernible] and I'm happy to fill him in when it comes them the continued kindle discussion that came up [indiscernible] a small flavor, the intention of ICANN is not to do this the easy way but to find something that's suitable. Therefore we carefully constructed a way -- but I have to admit that the Amazon company has been very helpful in those discussions, there is a control in the Amazonian countries, including giving domain names, a list that cannot be used for making sure that the dot Amazon is not used against a cultural heritage in those regions. I hope that this discussion can end a who said and who did what discussion and we can proceed to do something that we think could be beneficial to the people living in this area. Thank you very much.

MANAL ISMAIL, GAC CHAIR: Thank you. I have US and Colombia.

UNITED STATES:

This is Ashley. I won't get into the who said what. I will respond to the draft GAC advice has put forward and go back a little bit? History as to how this has played out and what the GAC advice has been to date. Would like to first note in July 2013. United States actually abstain interested a decision for the GAC to object to the dot Amazon string moving forward. We did that despite the fact that our policy still stood and still stands, the US does not see sovereignty as a valid basis for objecting to the terms. We do not agree or see any international consensus that recognizes inherent governmental rights in geographic terms and we reserve the right to put forth a position again and abstained wanted to accommodate a conversation between the concerned parties on this application and that was six years ago.

Then in Abu Dhabi the US supported the GAC advice and asked that ICANN help facilitate conversations to reach a mutually agreeable solution. At this point however, the US cannot support any further GAC advice on this issue. This is no longer a GAC issue. This is an issue that I encourage the ACTO, Amazon countries to continue to negotiating with the applicant, Amazon INC. and we believe that the issues can be addressed with you it's time for the process to proceed. Much of what we rely on here at ICANN is faith in the process and procedures and for over six years, it's time to let the process and procedures move forward. So at this point I want to make it clear the US cannot support this proposed GAC advice thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. Colombia.

COLOMBIA:

This is [indiscernible] from Colombia. Will read in Spanish. First of all, specifically some of the actions that have been taken with respect to the application of the delegation of dot Amazon regarding the eight countries that are part of the ACTO and we have from the very beginning rejected any intention to approve by third parties the geographic names of the member states of ACTO without the consent of the Amazon countries. So in this respect the unanimous decision of the eight countries that make up ACTO to that rejection has been expressed in two statements by the ministers of foreign affairs, the first one May 3 of 2013 and December 1st, 2017. And both have been endorsed by this statement it have extraordinary meeting of the ACTO that met in Brazil in August 27, 2018, and this was sent to ICANN authorities and we reaffirm that the Amazon [indiscernible] is related to an area that reflects the culture of the countries that compose it, that the [indiscernible] to be approved -- that the eight countries should get into a dialogue with the CEO of ICANN. Could not takes place basically because of political issues in the region so we cannot reach a consensus so as to have any position on behalf of that organization. But this does not mean that the countries will not more forward regarding their rights over the geographical names additionally and based on the difficulties that result from the resolution, the countries have been reconsidering their position.

So when dealing these discussions together with the Amazonian countries on March 4th, the ministry of [indiscernible] sent a letter to the CEO and president of ICANN and to the president of the board, the

chair of the board, staying Colombia is really concerned to protect the cultural, social, economic and environmental rights of an area that are highly sensitive to the whole world. And this is regarding the delegation of the TLD dot Amazon. So that they recommend postponing this delegation until a consensus is found out. We see no consistency of the corporation to make a final decision in the process where several states are saying the applicant wants to be delegated a geographic name without asking a discussion of a working group, this is the time to call the attention of the countries in this committee so as to maintain the multi stakeholder perspective when decisions are made because otherwise there wasn't be such multi stakeholder vision. Only one of the players will be benefited and not only against the GAC advice, that also against the position of eight countries that make up an organization.

In the case of dot Amazon this is not an isolated issue but it will be a very bad precedent for the future when states want to preserve and maintain their rights against other players in this same subject. So the idea is to strengthen GAC and to defend the role of states within ICANN. So we ask for the support of the countries present here so as to continue fighting for final solution in this dot Amazon issue.

MANAL ISMAIL, GAC CHAIR: Thank you, Colombia. Yes, please, go ahead.

ISRAEL: I've been following the issue for quite a few years and I think we all realize it's a long [indiscernible] right now and I listened carefully to Mr. Marby's summary and I would like to support the standpoint of the USA. I believe that the Amazon application is a matter to be resolved and solved by ICANN, Amazon, and the Amazon countries. To my understanding, this is not an issue to be addressed by GAC. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Israel. Argentina, please.

OLGA CAVELLI: Argentina believes it's reasonable to give it another try. It is a matter of the GAC because of this particular case of Amazon involves eight countries of the Amazon region but we had other case that were solved in different ways but also presented some problems in the previous years after the first round of new gTLDs as our distinguished colleague from Columbia mentioned, we had extensive discussions in the GAC working group on geographic names trying to find reasonable solution and is ideas to face a new round of new gTLDs with less objection and problems. So we see value in not only the working group within the GAC but also in the Work Track 5 five venue that's been developed by the GNSO and very important cross community effort which is what we discussed this morning, and we will discuss tomorrow in this room.

So Argentina believes that it could be positive for all the parties for ICANN, for the company, and for the Amazonian countries to try to find a solution which is what they are requesting now and not take this away

from the GAC. We believe it's not a problem of these countries, it's an important issue relating to the sovereignty and the value of the names for each and all the countries represented in this room.

MANAL ISMAIL, GAC CHAIR: Thank you, Argentina, I have the European Commission and Switzerland.

EUROPEAN COMMISSION: I would like to state that the commission shares the general principle that names relate -- top level domains should be given out with no objection the national or international authorities concerned and we know that the discussion about whether it is a geo name whether it's taking place and not resolved at the ICANN level, but I want to highlight, like Argentina said, that we had instances in the past where we had successful solution like in the dot wine, Champagne, geographic implication after long discussions we had resolution at the GAC level of those issues. So maybe we can take advantage of what was working and what didn't work. So I think what doesn't work is to start -- to continue this blaming who did or did not successfully follow the previous instructions and who had constructive dialogue and start to put -- I think it was a very good suggestion to put a very clear timeline with a series of meetings and a very clear scope for this to resolve. And of course to identify the correct [indiscernible] whether it would be the ACTO countries or whether they prefer to do this with the ACTO secretariat. And the Amazon company on the other side. But we welcome the possibility that this can be resolved. We know it's a

difficult issue as it was dragging and we believe that it's possible to have an output in the near future if the parties sit at the table and have a constructive dialogue but to stop on what was not successful in the past. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, European Commission. Switzerland, please.

JORGE CANCIO: Thank you, very much, Manal. Jorge Cancio, Switzerland, for the record. I think that [indiscernible] from the European Commission basically made the points I would have liked to make but much more eloquently, of course, from his side. I would just like to stress a couple of things. The first thing that due to reasons which are external to the will of the parties to negotiate, really there was a long period of time until the IRP took its position that this question and this issue was on ice. So we had not been negotiation or having a facilitated discussion for seven years. It's been in the last 18 months, more or less. Actually, the GAC advice which I think stands fully from Abu Dhabi is three or four meetings ago, depending on how you count, that is bit more than a year, and in the end the substance of that advice asks that there is procedure, a facilitated discussion on substance -- that there is a mutually accepted solution. I think that that principle stands.

And at the same time, I understand that a strict timeline would be helpful for at least if the GAC is going to ask something from the board, that we take up and if I hear our US and Israel colleagues, this is one of

the grounds we would need to address to have a dialogue focused with a timeline and this is also something that was mentioned by Brazil colleagues and European Commission, if we can built that into a possible advice or follow-up advice, I think we should be able to agree on that. Because in the end this is a follow-up to an advice we gave only three meetings ago and we shouldn't really lose the opportunity of arriving at a mutually accepted solution in this case which if resolved positively would be a very positive active precedent for the whole community.

MANAL ISMAIL, GAC CHAIR: Thank you, Switzerland. I think we are having an important discussion, so I will allow the discussion to continue and we can take the 15 minute break for this discussion and then we can stop at 5:00, if you allow me. So I have Iran, please.

KAVOUSS ARASTEH: Thank you, Manal. I think the request from Brazil and/or the eight countries is quite legitimate. What they said, if you read from the last line, mutually acceptable solutions. They don't want a solution acceptable to Brazil or seven countries or dot Amazon, they want mutually acceptable solutions, and at the end it says in order that this string or this TLD going forward, the application, I don't think that I have never ever heard that anybody express views against negotiations and finding an acceptable or mutually acceptable solutions. So I think perhaps with some slight changes we can put or inject into the request of Brazil and putting forward and I also agree with Switzerland that

perhaps we should not put it open ended time for this discussion, perhaps we should say in a reasonable time frame acceptable to the parties.

But I don't think that anyone could say that this is not a matter related to ICANN or GAC. If it is not related, I don't know where they discuss it. Mars or in another universe? They should discuss it here. This is TLD, and they should discuss it here. Once again, legitimate request, and perhaps change or modify during the [indiscernible] countries during the break and appear with something, put a timeline and that's quite acceptable to us.

MANAL ISMAIL, GAC CHAIR: Thank you, Iran. France, please.

GHISLAIN DE SALINS: I think as GAC we always favor discussion and negotiation in search for compromise, it's a tradition in GAC. So I was a bit surprised. I think it was an unfortunate choice of words by the CEO of ICANN saying we've lost 15 months. And if discussions or negotiations are a waste of time, then we shouldn't come to GAC or ICANN meeting. It's always good to negotiate and find a mutually acceptable solution so I don't think a few more months would make any harm, and Argentina said I think it's reasonable demand, especially since on the substance there's a very strong view among GAC members that cultural heritage and geographic names are important matters.

I think GAC and governments are in a very legitimate position to provide advice on the matter. It's an important principle. I think the European Commission recalled it that geo names -- would make sense for France at least to give discussions another try. Especially it's our standing GAC advice we should give more time. I think the proposition from Switzerland, maybe to give time for discussion but maybe with a proper precise timeline. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, France. Is this Colombia? Peru, sorry.

PERU: Thank you very much, Antonio Miranda, from Peru. I just want to -- the support of my country to the proposal put forward by Brazil on behalf of the ACTO countries. I believe that all ACTO member countries are in favor of continuing can a dialogue and with negotiation with all the interested parties, in this case Amazon INC. recognizing the important role played by ICANN in particular the ICANN CEO. That is why we hope that the board decision on this matter can be postponed until we can find a mutually acceptable solution. As colleagues have already said, it's not a matter of looking for a solution that will be acceptable only for the countries, it should be acceptable to all the parties and of course this is a very important topic. It has different perspectives it has to do with social, cultural, political issues and of course this can set a precedent for the future for similar case. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Peru. I have US and then Goran? Okay. This is a direct response to US -- so.

GÖRAN MARBY: For clarification, I never said we lost 15 months. I checked the transcript and I think it was a misunderstanding, so I hope that makes you feel better about my comment. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you. US, please.

US: And I appreciate there is so much goodwill and interest having there be a mutually acceptable solution. What I'm trying to say is, the GAC shouldn't be a vehicle any longer. I encourage the Amazon countries to reach out directly to the applicant. It's not clear outside of today's conversation much progress has been made in the last 18 months or 15 months and I'm not sure what value or how appropriate it is at this point the GAC be involved. Particularly for making references to past GAC advice on this and I would have to object to that because we reserve the rights as United States to come back to that.

So again, I would -- there's I think willingness on both sides, the Amazon countries and Amazon the corporation, to have conversations and I hope that would happen rather than having their constantly be a man in the middle, for lack of a better way to characterize it, to actually get

the work done, commitment there, have the conversation start, and don't need to have us in the middle of this situation. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. I have Denmark and we have to conclude afterwards. So Denmark, please.

DENMARK: We would like of course to see a mutually acceptable solution and we have really hoped that that have been reached already a long time ago but it has not been possible. On the other side, we have been active with [indiscernible] and we know the [indiscernible] decision taken one and a half years ago and in our view ICANN should as soon as possible after an IEP normally take a new decision. So we are on the one hand have sympathy with trying to find a solution. On the other hand, we have a process and we must keep those processes which we have agreed upon within the community. The best thing is that the parties agrees between each other and that is the week's meeting here, why not use that possibility -- I don't know why it should not be possible to do that. If ever GAC should be involved in that, then we will seek a really narrow time frame. I'm not talking about to the next ICANN meeting but really very few months in order to try to find a solution. Because if it's not possible to find a solution within that time frame, we cannot go on for this forever and we have to follow the procedure and the board have at one time to take a decision. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Denmark. I have a very last request for the floor from UK.

UK: Thank you, Manal. The UK has long supported the provisions in the applicant guidebook of 2012, because we think there were a balanced compromise, but in principle we do not believe governments have inherent rights over all geographical words and we recognize there are very strong feeling and great sensitivity in this particular issue, but again, we have serious concerns about just how long it is taking, the many, many delays we have had and now increasing confusion.

We're also seriously concerned by the draft advice on the screen here which would appear to lead to yet more indefinite delay in the way it's written. The ambassador from Brazil talked about a strict timeline but there's nothing in the drafting here to reflect that. If we're not convinced that we need advice but if we are going to consider it, as Denmark has said, it needs to be a very strict, clear timeline in there because we can't have this issue just go on and on forever. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, UK. And –

UNIDENTIFIED SPEAKER: [non-English word or phrase].

MANAL ISMAIL, GAC CHAIR: -- plan for what we should expect next. so I really don't see why not. So I hope the concerned parties will continue this constructive dialogue and maybe come back with what we discussed as a concrete time plan with milestones to reach a mutually acceptable solution.

So I will stop here, and we have now the meeting of the GAC working group on NomCom. So Olga, you will be joining us? Thank you. And thank you everyone for your active participation. Thank you.

[END OF TRANSCRIPTION]