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LONDON – GAC Working Group Updates  
Sunday, June 22, 2014 – 09:00 to 10:00  
ICANN – London, England

TRACY HACKSHAW: If I could ask everybody to please take your seats, we're about to start the session. Please take your seats. Thank you very much.

Good morning, everyone. So we'll go straight to the agenda. The first item on the agenda working group reports. We have Steen (phonetic) looking at the working group. Peru.

PERU: I would like to say something in Spanish, please. For the sake of transparency -- I will give you a minute to use your headsets. For the sake of transparency, I would like to report that Peru has nominated Olga Cavalli for one of the vice chair positions. And Paraguay and Peru has nominated Thomas Schneider as chair. That will be all. Thank you.

TRACY HACKSHAW: Thank you. Working group methods working group report.

SPAIN: Thank you. So we're a bit late in the schedule. I will be very brief. Because we have already been allocated another slot on Tuesday for getting into detail with this working group. So I will just give you a brief update.

First of all, I want to thank the extremely valuable help that we have been offered by Secretariat. And so that's the first thing I want to say.

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And, second, as regards the main objectives of the working group, what we have been working in in the last months and which is our primary objective for this meeting is to ask for the rollout of implementation plan that we have been devising in the last months. And this plan is made up of easy-to-implement measures and practical issues that we have already agreed upon in previous meetings. So that would be the first objective.

And, as regards of our issues, like the number, the election of vice chairs or publicity of meetings, that still needs some further discussion. We, hopefully, will find, I believe, consensus in this slot that we have been allocated on Tuesday.

So those are the main objectives for the working group. And that's it for today. And I will leave now the mic to other colleagues who have less time. Thank you.

TRACY HACKSHAW:

Thank you. Okay. I guess, we can move to the Lebanon, Working Group on Government IGO Engagement.

LEBANON:

Good morning, everyone. I would like to thank everyone who has contributed to the activity and the support that we got from everyone, especially the secretariat.

I know how busy everybody has been, and the ACIG being in a tough position, but still, we got the support that we needed.

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I'll be as brief as possible. I'm not going to go through the deck of view graph that I've sent to everybody this morning. If you could move, probably, to the outline and it will be there, please, on the view graphs.

I'll stay on this page as much as possible and try to finish in a couple of minutes.

We have identified the milestones and with how to move forward.

And the package has a background and terms of reference, especially as it relates to the ATRT2 recommendations. We talk on the view graphs about the GAC and the ICANN GSE, the roles and the common grounds; what is ICANN's government engagement strategy; the current coordination arrangements between the GAC and the GSE group, what's going on, what to aim for, and questions that we forwarded to the ICANN GSE group.

Next slide, please.

We've held some working group discussions for members of the GAC. Then we had introductory discussions with Dr. (indiscernible) the ICANN GSE group. We developed the preliminary TOR. We came to the GAC in Singapore, and we got an agreement on the TOR. Then we drafted a work group workplan. We held a conference call where we reviewed the package you have plus some other material. During the call we agreed on producing a set of questions that were prepared, thanks to Suzanne, most of them.

Then the questions were reviewed by the working group and were sent to the GAC for input. After finalizing the questions, we sent them to Dr.

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Kamel to try to get answers to those questions. The questions are in the package, by the way.

I held a discussion with Dr. Kamel for about 45 minutes last week in Geneva. There were some clarifications of the questions, some clarifications of different positions and where things are. Glad to tell you that we're meeting at 10:00, the working group and the GSE -- ICANN GSE group, especially the leadership. People are welcome to come. The meeting is upstairs in the lobby, especially the working group, please, in the lobby next to the bar. It's the -- you get up three steps and in the back.

We are hoping to get some agreement on the next steps as we move forward. And then it will be up to us to then follow up and track it.

I do not plan to go through the package unless people have specific questions or concerns. And I thank you all.

TRACY HACKSHAW:

Okay. Thank you, Lebanon.

So we can move to the next working group, which will be Australia on future new gTLD rounds. Australia.

AUSTRALIA:

Thank you, Tracy. And good morning, colleagues. I will also try to be relatively brief as I gave in line with my update yesterday morning on new gTLD working group.

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This working group is looking at -- looking forward to future rounds of new gTLDs in light of our experience with this first round.

I think it comes as no surprise to those in the GAC that we've identified a number of areas where we could potentially work within the community to look to improve the policy framework for future rounds.

And, in terms of the areas which have been identified to date, these relate to geographic names, applicant support in developing economies, and community applications.

These are the three issues which are currently being looked at within this working group.

And subleads have been identified for each issue. So for geographic names, Olga Cavalli from Argentina is doing good work taking the lead on this issue for the GAC. In terms of applicant support in developing economies, Tracy from Trinidad and Tobago is the lead for that issue. And, in terms of community applications, it's the U.K. and Switzerland.

The leads for these groups were identified based on countries having particularly strong interests in the issues. And there are a good number of GAC members working on these issues within the working group.

In terms of updates for this meeting, the main progress, again, as was the case in Singapore, is with the geographic names issue. The other two subissues, some progress has been made. And I would encourage GAC members who have an interest in those issues to work with the subleads and/or join the working group to help progress those issues.

One of the things that we've been looking at broadly within this working group beyond the issues themselves is how we may be able to coordinate with the rest of the community going forward. So, as I mentioned yesterday, one of the things that I'll be doing at this meeting here in London is participating in a session with the new gTLD applicant group and the registry stakeholder group on Wednesday at 10:00. Unfortunately, that does overlap with the GAC meeting. So I understand that not many GAC members may want to or be able to participate. But I'll certainly be reporting back from that. And one of the things that I'll be trying to do in that session is to flag to the community that we are doing this work and encourage coordination between our various efforts.

In terms of other things happening here in London, on Wednesday morning immediately before that NTAG and registry stakeholder session, the GAC is scheduled to give -- to host or hold a discussion with the community on geographic names to begin to seek feedback from the community to raise issues that we've been thinking about and to initiate that discussion. I think -- I know that, again, clashes with some other sessions. But I expect that there will be many in the community which will -- who will have an interest in this issue, particularly in light of some recent board decisions. And so I'd like to turn over now to Olga to run us through the structure for that session on Wednesday so that GAC members here can provide some feedback on the proposed handling and presentation for that meeting on Wednesday.

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OLGA CAVALLI:

Thank you very much, Peter. And there's a very brief presentation that I prepared.

First of all, I would like to thank the host country for this beautiful meeting. And it's always lovely to be in this nice country and nice city.

And also, I would like to thank all those members of the working group that have been sending contributions and information to prepare this information.

This presentation is very brief. It's just a summary of what we will present on Wednesday morning at 9:00 a.m., as Peter mentioned. As some of you may not be there, I just wanted to share with you what we will present. I also have circulated a version of the draft background paper. I have received other contributions from Peru and from other members of the community that I will incorporate, and I will circulate a new version of it very soon.

Next slide, please.

Just to -- for those not so aware of this process, we started with a mandate in the GAC communique from Durban last year that said that GAC and ICANN would collaborate, refine for future rounds all the texts from applicant guidebooks and other processes to the protection of terms with national, culture, geographic, and religious significance. So that's why we have started this work with this subgroup. Next slide, please.

We prepared a background paper with different comments and changes. First draft was prepared by Argentina, circulated during February. And then we received comments from different members of

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the working group. Then in Singapore meeting we presented to the whole GAC. We also received other comments. And then the draft document has been revised after the decision from the board to respect the GAC advice for .AMAZON. And there are a lot of important documents that are related with the protection or the relationship between trademarks and geographic names in new gTLDs.

Next, please.

So the main sections of the new draft background paper that I circulated is the background of the whole issue, possible actions at the national level to protect these geo names, analysis of the expert advice document requested by ICANN board in relation with .AMAZON, suggested development of best practice guidelines, and suggested refined text for any document like the applicant guidebook.

Next, please.

What the document does not include -- and this is important to mention that in the first version we proposed integration of lists or repositories of geo names. But all the comments that we received were not so much in favor of that idea. But it seemed to be complicated to have it updated or with good information up to date. So we decided to take it out of the document and propose the creation of the best practice.

And then the issue of using geo names at the second level, we thought it was not the moment to talk about that. So that's out of the document in this new version.

Next, please.



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Then we described the possible actions at the national regional level, which is enhancing the ISO 3166-2 list and do some outreach, better outreach in relation with ICANN, especially in those countries not so much aware of the ICANN processes and meetings.

Next please. Next slide. Thank you.

This is suggestions for new text in the applicant guidebook. I won't go into it. You already have it in the document.

Next, please.

The next slide is also suggested text for the applicant guidebook. The important thing about this paragraph is that the list of names that are mentioned in the applicant guidebook or any applicant guidebook should be taken only as a reference but not as mandatory list avoiding the review of other names that are not in those lists. Next, please.

This is some text from the expert advice requested by ICANN in relation with .AMAZON. It's very interesting, because it's exactly in the line of comments made by Argentina, Peru, and other countries against .AMAZON and .PATAGONIA. It's that having the right of a name of a trademark or it does not give the right to exploit, to use this matter for other things like new gTLDs.

Next slide, please.

I will refer to the last paragraph. It says that the holder of a trademark cannot invoke this right as right to use the sign even for the products and services specified in the registration or even as the right to use the sign in particular form such as new gTLD. This is exactly the text or the

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orientation of the text that Argentina presented in its objection against .PATAGONIA under the International Chamber of Commerce.

Next, please.

So then what we thought we take out the lists. We don't have more lists as a reference. But we should include and should develop a best practice guidelines for the companies that want to apply for a new gTLD so they have more certainty.

So the companies are encouraged to do a previous research. This could be an idea to be part of this guideline. So previous research and investigate about the different meanings of the applied-for strings, so they don't have surprises that it happened to be the name of half of a country or the south part of a country or a big river.

And, if there is any doubt, one of the best practices could be that the applicant should or must establish contact with the relevant authorities whether it's a country, city, region, or subregion.

Next, please.

So other ideas for best practice for ICANN -- enhance the outreach towards countries that are not so much involved. We saw only very few applications from Latin-America and Africa. This shows that the outreach was not enough and should be enhanced. And establish also clear steps for governments in reaching consensus and applicants in relation with the applied gTLD. And this also Peru suggested that we -- ICANN should embrace basic principles of international law. This was mentioned by my colleague Milagros yesterday in relation to .VIN and .WINE.

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Next step is to establish a community working group to develop these changes, proposed changes in text like applicant guidebook, a set of best practices, reinforce outreach initiatives with ICANN, and start discussions about establishing a good and effective cost neutral dispute resolution procedures for countries.

And I think that's it. Next.

Next presentation it's June 25 at 9 hours. I don't know which room. So those of you that are interested are welcome to join us. Any news or any updated versions of the document will be circulated first into the working group and then into the whole GAC. Thank you so much.

TRACY HACKSHAW:

Thank you, Olga. I'll pass back to Australia for summary wrapup.

AUSTRALIA:

Thank you, Olga. Are there any comments from GAC members on this proposed presentation for use in the community session on Wednesday? I see Italy. And then Singapore.

ITALY:

Thank you for the precious work of this working group. And I'm glad that you are proceeding with the proposals. I would only recommend that, since the time from now from the next call for applications is not so predictable, let's say, in my opinion, not less than three years if not four or something like that because the process is going ahead, but there are still thousands of new gTLDs to be considered. Then I suggested that this is also connected to another solicitation that the

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GAC might promote. That is the review panel envisaged in the Affirmation of Commitments on promoting competition, consumer trust, and consumer choice. This is something that will be a real multistakeholder forum, arena, let's say, and then will provide precious information to the GAC working group. The two things have to be seen connected. Also because the GAC recommended that after finishing the implementation of the first call, ICANN should have a reflection on the results and then wait some time in order to write again a new application guidebook and all the policies connected. Thank you.

AUSTRALIA:

Thank you, Italy. I wholeheartedly agree. And thank you for raising that issue. This is certainly one of the key processes which will be happening to review the first round and to move towards a second round. And our hope, certainly, is that this working group will be moving along in parallel with that process and will help inform any GAC inputs into that process. And then we'll be able to sort of coordinate those two activities. It's really for us to be getting ourselves prepared on the front foot for that and any other processes going forward to future rounds. So thank you for pointing that out. I think it's a really important point. Singapore.

SINGAPORE:

Thank you, Peter. And good morning.

We would like to thank the working group for this very thoughtful and enlightening report which we strongly support.

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I just have a generic question. And that is relating to section 4 where there's an interpretation between the trademark and new gTLDs.

My question is: Would it pose a challenge to the UDRPs and as many ADRPs ccTLD in any country? We know those ADRPs essentially give the right of trademark holders when they go for dispute resolutions. And I read section 4. It seems to suggest that trademark holders doesn't have a right under gTLD. But in the ADRPs or UDRPs, we give the right to trademark holders when they go for dispute, when they register the names under the gTLD. So perhaps a working group can enlighten me the difference between the UDRP where we give the right to trademark holder as well as gTLD interpretation. Thank you.

AUSTRALIA:

Thank you, Singapore. Another very important point which I'd be happy to respond to, except I can see Olga is very keen to. So I will pass to Olga first.

OLGA CAVALLI:

Thank you very much. The text included in the draft paper is part of the advice given to our external expert to the board. I thought it was interesting. I thought about the UDRP. My impression is that that would be for the second level, not for the gTLD or the TLD. But I'm happy to explore that and include that information in the draft paper. And, Peter, if you want to add something, please.

AUSTRALIA:

Yeah. Thanks, Olga.

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I think it's a really important issue and one which is at the core of much of what this working group is going to be looking at and the community will be looking at even beyond just the geographic name issue. I think many of these -- well, particularly geographic names and community issues. One tension we face there is if it's where one or more parties has some sort of right or interest in the same string and how they are resolved. And a lot of different issues come to play in those situations.

So, in the community application process, some applicants who are able to assert that their communities are given a priority through the process if they would like to apply themselves. In other instances, they'd be able to assert that they have standing to object.

What we found in the geographic names space is that governments, obviously, can come in through the GAC advice process but, potentially, also use the community objection process. And they're all instances where one or more party will be asserting some right. So the question becomes how do we handle that and what do those various rights mean? So, in those cases in the future, is there -- what we'll be looking at is there a better way to handle it, basically?

So we've had several examples in the first round where companies have applied for a name and they have a trademark in that name sometimes in multiple jurisdictions and one or more governments think that they also have an interest in that name either for a sovereignty reason or national interest or however we frame that. And in that case, those two parties have a difference -- may have a difference of opinion. And the question becomes how do we handle that in future rounds. How do we handle it in this round? Was that effective? Was it clear? Was it

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transparent? Did it lead to predictable outcomes for all the interested parties?

So I think that's a really interesting question. It's a challenging one, particularly for some of the high-profile examples we've seen this round like Amazon that's led to very intense discussions, very detailed legal advice on what the framework was, what those right -- various rights meant, whether there was priorities and so on.

And I think it would -- certainly, one of the things that we think is it would -- the community would benefit from looking at those processes going forward. I know that doesn't give you an exact answer because, at this stage, I'm not sure there is an exact answer. Yeah.

Denmark.

DENMARK:

Yes. Thank you very much. And thank you, Olga, for your presentation.

I would like to say that we agree very much with Italy and that the AoC review process of the new gTLD process is actually underway. I think there have been commissioned and expert to review it, at least as far as I understand. And I think it's -- it is very important that this working group and that the GAC feed into -- feed into the process and that we have a coherent way of going forward and ensuring the coherence of our work. Thank you very much.

AUSTRALIA:

Thank you, Denmark.

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I don't see any other -- oh, we have Lebanon.

LEBANON: Sorry to do this, but on a different topic, it's 10:00. And I would ask the working group if -- or people that are interested in the discussion with the ICANN GSE team to follow me or come with me to go upstairs to meet them. Because the time is now. Thanks.

AUSTRALIA: Thank you, Lebanon. And, as I don't see any other requests for the floor, we will close now. Just very briefly, as we heard yesterday, the other issue that could potentially be looked at in this new gTLD working group is the issue of IGOs. After that session I had a chat with a couple of our IGO colleagues. And this is something which I think would be useful to progress in some small way here in London that we can have a look at whether this is a new issue that could be looked at in this working group, whether someone's interested in taking the lead on that and so on. So, if anyone is interested in this, please come and talk to me. And we can see whether there is anyway we can progress this in a small procedural step here in London.

Thank you. And I believe we'll now go to coffee break.

TRACY HACKSHAW: Yes, thank you, Australia. So now we have a coffee break. Can we come back at 10:30 precisely. Since we already started quite late this morning, we want to keep it very tight. The next topic transition of U.S.



stewardship of IANA and strengthening IANA, ICANN accountability.  
10:30. Please return at 10:30. Thank you.

(Break)