
SINGAPORE – GAC Plenary 3
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THIS TRANSCRIPT BEGINS @ 00:49:46 OF THE AUDIO

CHAIR DRYDEN: Okay. So for the GAC, if we can again return to the issue of safeguard advice, where we left off we had formulated a series of questions and a comment regarding the overarching safeguards, otherwise known as category zero.

And the U.S. had taken us through some of the topics that they had identified questions for. We had a question in relation to that from New Zealand and a comment from Iran that we are rolling up.

I think we can move, then, to talk about any remaining issues or questions associated with category one. As a reminder, this is the category that deals with what the GAC referred to as regulated sectors and identifying within that highly regulated sectors. And the NGPC came back and created a list of, I think it was highly regulated and less highly regulated sectors. So this is your opportunity, if you had any points here to raise or questions to identify. Category one.

United States, please.

UNITED STATES OF AMERICA: Thank you, Madam Chair. And I will not belabor some of these points, because they are in writing and they have been distributed.

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But I still think it's useful to kind of flag exactly what motivated us is a concern that perhaps the NGPC had not given sufficient thought to certain of the elements that the GAC had very usefully presented.

So one of our first questions, actually, is a procedural point. And I will confess we have found it rather hard to track sort of the translation of the NGPC's responses to the GAC into material that you can easily find on the ICANN new gTLD Web site.

So, when it comes to the PIC specs, the public interest specification, I think it finally seemed to strike us that perhaps we were looking in the wrong place. And so we believe it's important for the GAC -- and, hopefully, colleagues share our concern. It's important to seek clarity whether -- either, on the one hand, is the NGPC seeking to create a separate base registry agreement for those registry operators whose strings fall under category one? Or does the NGPC expect such registry operators to incorporate what we have now -- we think we're correct in calling the category one PIC spec into their particular registry agreement.

So the issue there is to simply clarify the status of whether the board has developed a particular PIC spec for category one and sort of its standing and how it gets into the registry agreements.

Because, if you look today at PIC spec, which is -- I think I'm going to be correct here, specification 11 -- it doesn't contain the level of detail that the GAC advice warrants.

And I'm not entirely sure which NGPC response to the GAC included this. Perhaps October 2013. There is a writeup of what appears to be



the NGPC's proposed PIC spec for category one. So right now it's just a question of seeking clarity.

The next two points I think on category one are pretty key. In particular, I did want to stress the GAC's advice is very, very clear we think for very good reasons to insist on validation and verification requirements for those strings that fall under either highly regulated or sectors that do require in the real world, in the offline world some kind of credential.

And the board has retreated from that and simply indicated that the registrant would have to make a representation to the effect that they actually do possess said credential. To us this is really, really critical. And it's imperative, we think, that the GAC urge the NGPC to revisit its advice and, in fact, to require validation and verification.

And, finally, we were also going to seek -- and we do have some far more detailed questions -- I won't get into them at the moment -- on the PIC dispute resolution process. Whether that is the sole remedy available to regulators or industry self-regulators to rectify fraudulent registrations in strings representing regulated sectors or those requiring credentials. And, if so, will the NGPC either reconsider its approach, proposed approach now, to the PICDRP or develop a faster remedy to mitigate harm to consumers. So that's our clear concern there is what are the remedies? Because in some cases the harm to consumers is going to be very immediate. So, obviously, in some cases we would be seeking an immediate remedy. And finally, with regard to category two, we're hoping to get more clarity on the issue of -- for those registries --



CHAIR DRYDEN: United States, could I stop you there so that we can reflect a bit on category one. And then we can move to category two? I also have requests to speak. So, if we can take those. So we have Indonesia and the European Commission.

So we have Indonesia and the European Commission, and the Commission I think is deferring to Indonesia. Please, go ahead.

INDONESIA: Thank you, Madam Chairman, and thank you, European Commission, for allowing me to speak first.

This New gTLD Program Committee already make for some outputs, and I would like to share what we have discussed in Indonesia and see whether it is of importance to other countries, too, and the GAC members.

Some words might be very general, and we don't have to regulate just our names, for example, but some words might be very sensitive and has to be highly regulated.

As all of us have -- have might have been aware, we already received some complaints from other countries about names which is just -- well, I bring one from the ICRC, for example. I think I just wonder what will Indonesian will response if somebody from other countries would like to make dot Bali, for example. I just wonder.

If the name used the so-called religion-based word, that might bring many social problems, too.



So those kind of name of (indiscernible) gTLDs might be very general, and everybody don't care, but some words might be very sensitive and has to be highly regulated, or -- now, if I say highly regulated, that might be interesting as to how we would like to regulate them. If we make a voting in the GAC members, perhaps 80% agree for particular names or something like that. But the 20% who doesn't agree might have a very important reason as to why they don't agree.

So if we move forward to give that names, due to social problems, social aspect, some turmoils may happen. Some problems may happen in this world. Now, here we should also remember that the cyberspace is the space for all the people in the world, and there's no -- not yet a cyber jurisdiction, not yet a cyber borders and so on.

Until we have that, then we have really to consider the social aspect, the cultural aspect of this NGPC (indiscernible). Thank you.

CHAIR DRYDEN: Thank you very much, Indonesia.

European Commission, please.

EUROPEAN COMMISSION: Thank you. I would like to fill in, first of all, what the United States said on the problem that it's enough to present a representation of the credentials. And I would like to take an example, which is Lotto, which is going to be very pragmatic if we don't have, really, the credentials for that, for that string.



So even though it is a high -- you know, it's put into the highly regulated ones, I think we feel very strongly about this, that it's going to be a problem for us.

So a few member states also have had -- have raised this issue. So I dare to say that we talk for them also.

Another one that we also continue to have a problem with is the fact that there's a differentiation of the treatment of finance and financial compared to bank, and I think I daresay also insurance, no? That they are not treated in the same way.

So we recall that at occasions when there was explanations around this, even before we produced the GAC advice, I think even in front of the U.S. senate, if I'm not mistaken, which we got reporting from, that ICANN did promise that all strings that have to do with financial and financial institutions would be given the highest level of safeguard.

So I mean, this is just what I wanted to say. Thank you.

CHAIR DRYDEN:

Thank you, European Commission.

Okay. Are there any other comments on this?

Please, go ahead, European Commission.

EUROPEAN COMMISSION:

Thank you, Madam Chair. I just wanted to comment briefly on safeguard number 8 that requires that registrant to communicate



whether there's been any change on the validity of the -- sorry, of the -- of their credentials.

From our perspective, it doesn't provide any incentive to a registrant, which will probably be in bad faith and will not communicate the change on the validity of their credential. So I think this burden or this obligation should be put on someone else that is not the registrant.

Thank you.

CHAIR DRYDEN:

Thank you for that, European Commission.

Okay. So what I propose we do with the category 1 discussion we've just had, we have some questions that I think we've had in advance from the United States, and then further comments highlighting particular concerns or particular strings where there are heightened sensitivities, so we can turn that into a comment or a question to be included in the summary for the category 1.

So I would like us to move to category 2, but Iran has a request first.

IRAN:

Thank you, chairman. Annex 2 is -- I have a comment on Annex 2. I have to make that in category 1, in category 2, because it's something that needs clarification. Thank you.

The title, regulated sector, and then highly regulated sector, and then you have an oblique stroke. Open, early requirement, until requirement

and then close. This oblique stroke means what? Means synonymous?
Means equal? Means what? And why oblique stroke?

Usually we put oblique stroke when we are not sure how to relate or refer to the two definitions. We put oblique stroke. That means either this or that according to the situation. And what we are here and why oblique stroke is introduced?

CHAIR DRYDEN:

Thank you. I think this moves us on to category 2. Yes? It's dealing with the closed or restricted access issue. Okay.

So United States, are you requesting to speak? Thank you. Please.

UNITED STATES OF AMERICA: Yes, thank you. Please, Madam Chair.

I think our key -- two key questions there is -- the first one would be there are registry operators, and the NGPC has briefed us as to how they intend to proceed with registry operators who have affirmatively noted that they are seeking exclusive registration policies. So if we recall correctly the GAC's Beijing advice indicated that if the term is a generic term.

So if I can go back, and perhaps my colleague from Iran might find this helpful, I believe I understood your questions but I believe that in the Beijing communique, we were trying to make distinctions between applications for generic strings that were being proposed as closed, knowing that there are some strings that we ourselves, the GAC, were seeking to have restricted registration policy, such as a dot bank. So in



other words, for reasons of consumer protection, we certainly wouldn't want anybody with no connection to a bank, or certainly not a credentialed entity, to be able to register in dot bank.

So we created some of these restrictions ourselves. I don't know if I answered your question, Mr. Arasteh, but we can certainly revisit that.

But we are talking about the top level. If it is a closed generic, the GAC simply said, well, if you do intend to do that, you need to have a pretty good public interest rationale behind that.

So our question there is how does the NGPC intend to assess the assertions by any of those particular registry operators that they will, indeed, be serving the public interest in managing that particular string as a closed, restricted string?

The next question I think is actually far more important to us, if I may. I believe our interpretation of the NGPC's response to the GAC's advice is that it interpreted our emphasis that no registry operator should be able to grant undue preference or the reverse, discrimination against any would-be registrant.

The NGPC appears to have interpreted that request as a request for transparency. And from our perspective, with some regret, one can be completely transparent and yet completely discriminatory. So if I were an applicant for dot lefty, and I made it very clear that I'm a left-handed person and I would like to reserve dot lefty for every left-handed person on the planet. But then I decide, actually, it's not just left-handed people. It's red-headed left-handed people because I want everybody

to look like me, why not? Well, that's completely transparent and completely discriminatory.

So I guess our concern there is if you read the Board's response, it would permit some level of discrimination, and there would be no remedy because if you go look at the public interest commitment dispute resolution process, you have to show harm. But if the registry operator is permitted to self-select, that all they need to do is meet the transparency requirement, then I don't know how you can resolve the harm that would result.

So our question has to do with clearly the NGPC we don't think has considered whether transparency alone is not only insufficient to deter unduly preferential or discriminatory registration policies, but it makes it incredibly impossible -- difficult, if not impossible, let me amend that, for anyone seeking redress to meet the standard of harm.

So we would like to include that as part of the series of questions that I know you are seeking a summary for the communique, and I'm sure we can negotiate some kind of text, but I think for utmost clarity, we would urge that if the GAC does concur with these questions, we simply attach them to the communique.

Thank you.

CHAIR DRYDEN:

Thank you, United States. In terms of procedure, I think the first thing we're trying to do is compile questions to share with the Board before we meet with them at the end of Tuesday. And of course the NGPC is a subset of the Board, so it's, for our purposes, a way to raise these issues



with the NGPC. And then we will see what it is that we need to say in the communique. But we will be summing up at the end of each day the communique draft text at the same time. We will be doing that, wherever possible. And I think that worked well at the last meeting, so we should -- we should follow the same process here.

Okay.

So I had the United States, and then are there any other comments on this?

Denmark, please.

DENMARK:

Thank you, Madam Chair.

I just want to say that Denmark is thankful for -- for the paper with the questions, and I think it's very important that, I mean, we ask as many -- ask such questions to the Board in order to ensure that -- specifically that the PIC -- PIC procedures and ensure that ICANN is able to actually enforce them. And this also relates to the binding character of the decisions and such.

So thank you very much.

CHAIR DRYDEN:

Thank you, Denmark.

Okay. So I think we can leave the topic of the safeguards at this point and as I say, roll them up into questions for our exchange with the NGPC and Board at the end of the day on Tuesday.



Just one comment because we did have this last hour set aside to discuss protections for Red Cross and Red Crescent. I don't think we're going to need an hour for that, so we're going -- we're going over time, and I think we need to keep to our discussion on gTLDs. So we will just cover it quickly before we conclude today to identify how we will proceed on that and what, if anything, we need to do as far as protecting or commenting further on the issue of protections for the Red Cross and Red Crescent.

So if we can, I would like to continue with gTLDs. Yeah? Okay.

All right. So if we go through the specific issues that we have listed, we have covered the staff briefings as well as the safeguards. I don't know whether there are additional comments on the dispute resolution issue apart from safeguards.

United States; okay. So we need to spend some time on that. Okay. Let's do that next.

Please, go ahead.

UNITED STATES OF AMERICA: Again, thank you, Madam Chair. And I will try to -- since the material has been circulated, I'm just going to touch on sort of the key areas, just to highlight what motivated us, and the motivations behind the expression of our concerns, which we have again sought to present in the form of questions. So I'm very grateful to colleagues and, in particular, Denmark just speaking recently, that the more detailed our questions can be, probably the better off we will be down the road.



So as we all know, the NGPC has made it very, very clear that all of the GAC safeguard advice is being implemented by ICANN through the use of public interest commitment specifications, which in turn are going to be subject to a public interest commitment specification dispute resolution procedure. So it is critical. That procedure then becomes exceedingly critical for us to understand and to make sure, as Denmark pointed out, that we understand exactly how ICANN intends to enforce it and enforce the results.

So if I could just sort of flag a couple of elements that we found rather important.

The time frame for consideration of a PIC spec complaint is actually rather unclear. So we took some time to go through the various time calculations. And so just to point out to colleagues, I believe we did have this in our written text that we circulated. There are a number of different proposed timelines, that if you take them all together, it could take up to 105 days for a dispute resolution, in addition to the undefined time periods for ICANN to conduct a preliminary review, a time for ICANN to investigate itself or form a standing panel to do so, and the time for ICANN to impose remedial measures.

So to us, that presents some -- not just questions but I think problems and concerns as to whether that length of time is an appropriate length of time to deal with something where there is actual harm, and there could be immediate harm.

So from our perspective, this is something we need to explore further.



I think another concrete issue that is a concern for us is this concept of a standing panel. It is not clear to us when ICANN will make a determination of investigating a complaint or report itself or when they might hand it off to a standing panel. So in particular, it's not clear what the criteria are that ICANN will use in making this determination. Who will be on the standing panel, for example? How long will it take ICANN to choose members of this panel?

So we're very interested in those elements as well as, you know, from whom -- from which communities does ICANN intend to draw members of the panel?

I think our biggest concern that I think resonates more clearly with colleagues in this room is the standing for appropriate government agencies and, in particular, law enforcement that track, you know, abusive behavior to report a complaint. So the current PICDRP provides that any person or entity that believes they have been harmed as a result of the registry operator's noncompliance may report such noncompliance. But the PICDRP further requires a statement as to how the reporter itself, so the complainant, has been harmed. Well, if you're a law enforcement agency, you yourself may not have been harmed but you're trying to do your job to protect your citizens. So we're not entirely clear whether ICANN has thought this through as to how you can ensure -- ICANN needs to ensure. Let me put it more affirmatively. We believe that ICANN needs to ensure that government entities and law enforcement entities have standing to raise concerns with regard to the noncompliance with the public interest commitments.

So we need to clarify out how this can be established.



I think another issue that I flagged just a moment ago is the ICANN versus -- an ICANN decision process versus a PICDRP process. So it's not at all clear what will determine whether a dispute under the PICDRP is enforced via ICANN directly or through the PICDRP process. And I think more clarity is really important there.

There also appears to be a fairly substantial loophole in the PICDRP in that there may be no resolution of a report of noncompliance. If the registry operator, for example, disagrees with the proposed remedial measure, they can invoke yet another alternative dispute resolution process, all of which could occur well after the 105 days that may have already elapsed. So that's -- When you add all of that up, that's a huge timeline.

And finally, what the remedial measures might be. Very, very unclear. So from our perspective, in the event that a registry operator fails to resolve its noncompliance, what would be the remedial measures that ICANN will consider, and how long will it take ICANN to determine the appropriate remedial measure? Under what circumstances would ICANN elect not to impose a serious remedial measure? And the reason we put the question that way is because that seems to be a very clear possibility, which triggers concerns.

So I will just leave it at that, and thank you, Madam Chair, and colleagues for hearing me out.

CHAIR DRYDEN:

Thank you, United States. Okay.



So we have additional points that we might raise with the NGPC in relation to this dispute resolution process.

Are there any other comments or questions that colleagues would like to add on this point? Netherlands, please.

NETHERLANDS:

Thank you, Chair.

I was wondering, we got an explanation on the -- from the NGPC about the generic terms. I was wondering because they have said in their feedback, I think in February, that there were still 12 applicants which were, let's say, judged through the, let's say, the contract specification as being generic, but didn't get any answer.

Also they say in their briefing that these -- basically the contract has been added, a sentence about what is generic and it should be open and not exclusive registry access.

I think my question is what remains to be done? Because I have seen no reaction up to now on this supposedly 12 applicants which have not reacted.

Thank you.

CHAIR DRYDEN:

Thank you. My understanding is that they are on hold until we can work out what to do with them or how to address those 12. So we can certainly ask the NGPC for an update, but that is my understanding.

Okay. Any other comments on this?

All right. Okay.

So let's move again. The last one, two items that are related are related to the request from the dot brand top-level domains and the release of country names or two-letter country codes. I can't remember who requested this be added to the agenda, but if I see no requests to comment on this topic, then I will invite comments on other gTLD issues before we move to Red Cross, Red Crescent.

So European Commission.

EUROPEAN COMMISSION:

Thank you, Madam Chair. It was just a question. The Brand Registry Group proposal we will discuss at a later stage or now? Because it was me who requested to discuss the Specification 13 which comprises the whole story of Brand Registry Group. But there has been -- There are two different -- well, there's the definition of brands, of dot brands, and there is also the specification that address the process that has been put forward to the GAC by the Brand Registry Group. So it's just for clarification, whether we're going to discuss that proposal now or at a later stage?

CHAIR DRYDEN:

So it is in the agenda to discuss it now. So since you placed it on the agenda, then I will ask you to introduce us to this issue.

Also, Philip Sheppard, who you will remember, came to present to us from Brand Registry Group is here, or was. Can you just wave? So he can also help us if we have questions for him. Philip has been involved,



and I understand the issue is still very fluid or active in relation to this. So I think it will be very helpful to us, actually, to be able to turn to Philip for the latest on this.

So with that, European Commission, if you could lead us in, please.

Thank you.

EUROPEAN COMMISSION: We have some questions, but it's good that the Brand Registry Group is present today here.

Our question is from the rules proposed, it's not clear when the GAC is going to act individually or is going to act as a GAC. And we also considered the fact that there's a silence rule, and if the GAC cannot provide commensurate time around objection or an approval of a certain application, it will be understood or deemed as approval.

We have to take into account that sometimes governments do work at the various slow pace. We're forced to do consultations back home so perhaps we wouldn't be able to comply with this 180 day period.

But perhaps the most striking thing or makes us feel most uncomfortable is the fact that GAC objection seems to be subject to a supermajority of the GAC representatives withholding their consent for approval. This kind of clearly introduce a voting procedure or force us to determine what a supermajority is in the GAC, so we don't feel completely comfortable with that.

And one of the main reasons we would like to object to this proposal is because objections to a dot brand application will be handled through

ICANN's registry services evaluation process. And we consider that this takes away the decision-making power of the GAC and from individual governments and gives it to ICANN which ultimately will have the last word on the approval or not of this application.

Thank you.

CHAIR DRYDEN:

Okay. All right. Thank you. That's quite a bit to take in.

Philip, can you help clarify what is under discussion, what is the actual proposal? And then we can talk about what is the GAC role in that.

PHILIP SHEPPARD:

Thank you very much. It's Philip Sheppard here from the Brand Registry Group. What European Commission was just referring to was a proposal that we, as the BRG, made to you at the last meeting.

That meeting was the first attempt at understanding what process would come out of the request to list country names notification, which is part of the applicant guidebook. I'm pleased to say that we're now completely with the European Commission in terms of a process going forward. Because, since that proposal we made to you, we've had discussions with ICANN about the proposal. And that was what they asked us to do. They said please talk to the GAC first, and then talk to us with a reaction from the GAC. And then we can create a proposal. Having done that and going around in that circle, they said, well, we have existing RSEP process, the registry services extension process which exists today and would merely be used in the same way as a

notification process for any single registry wishing to use country names within its TLD.

And, remember, what we're talking about is not what you currently have, which is sort of the foldup, sort of like brand.com/Singapore. We're talking about the concept of Singapore dot brand or Singapore.TLD. It's using it as a subdomain. And that's the part the registry agreement calls for having notification process. We've spoken to ICANN. And we agree with them the RSEP proposal seems to be a good way forward. But, in our other suggestions we've had with GAC members, you rightly said to us, when we last spoke to you, "We are here as GAC to give advice about ICANN processes. We're not here to do work free of charge to facilitate an ICANN process."

And, in looking at that, we are talking to ICANN now about a way -- because we recognize that for the dot brands, which are a third of all applications, many of them would have the same needs. Many of them want to make the same applications. We say well, look, wouldn't it make it easier if we could group the applications? We have a grouped RSEP application. And anybody who wants to sign up for that would do so and put all their names on that. So the GAC's attention would then need to be on that one notification. Anybody wishing to raise an issue could then raise it individually with that or with the group. And the process would be settled. And ICANN is still looking at how they might do that, I think, from the legal perspective, in terms of a group speaking for more than one individual.

So that's where things stand at the moment. So we're on you as having to move forward from the original proposal. And we're trying to find a



methodology that makes it clear and simple for everybody and equally gives you full attention span when needed but minimizes the work necessary in order to do that given the number of applications there are likely to be.

CHAIR DRYDEN:

Thank you very much, Philip. I'm reminded in our minutes we did have a summary of our discussion. And we did decide that the GAC as a whole would not be a way to be considering these issues if they came to the committee and that it was really a matter for each individual GAC member. And I don't think we concluded on whether we would do anything additional to support that happening. But that's where things were left.

I have Norway next, please.

NORWAY:

Thank you, Chair. No, it's just to mention what you just touched upon, that we had a discussion in the Buenos Aires meeting. And then it was made very clear for many governments that GAC is not an operational body in the way that we can handle -- it might be a few, but it might also be many -- different application for the use of the country code or the country name and dot brand. So, as you said, we're trying to do some rationalization or something of the operations so it will be easier, as you say, for the GAC as a whole to look into this. But I don't think the GAC is the right entity to give any conclusive advice to you on the use of the country code letter. So you have to go to the legal entity of the national -- each nation for this. And I thought many countries



mentioned this in the last meeting. So that's why we're just a bit puzzled by the procedures that you're now talking about. I don't know if that message came through. Thank you.

CHAIR DRYDEN: Thank you, Norway. That's very helpful. I have Egypt next and New Zealand.

EGYPT: Thank you. Just to follow on what Norway said, I also recall that, during our last meeting, we also mentioned what about countries that are not represented in the GAC? I mean, we will not definitely be in a position to adopt things on behalf of other countries even. Thank you.

CHAIR DRYDEN: Thank you, Egypt. I have Italy and then New Zealand, please.

ITALY: Yes, I tried to make this simple possibly. Because, of course, we are talking of second level names and geographic names. But, to make it simple, if I look at Ferrari, it's a very famous brand. If we take, for example, the two-letter codes that are the codes of country codes, perhaps there should not be -- I'm saying there should not, I'm not sure that everyone could agree on that. But two-letter codes as a second level might be easily accepted, in my opinion. While, if we allow full names and then full names are in certain cases simple, like Italy, for example. But there are many countries that have quite complex names and so on and they could argue, if there is not a rule, let's say, how to --



and then there should be complete names that make much more complicated the second level connected to the brand.

So in this way I'm also -- also the brand group should try to simplify a proposal, in my opinion. Because, otherwise, we will never reach an end. You will not get an opinion from the GAC.

CHAIR DRYDEN:

Thank you, Italy.

New Zealand, please.

NEW ZEALAND:

Thank you, Chair. I recall at our last meeting I made a suggestion which seems to have been overlooked. I said at the time that brands represent a special case of these top-level domains where there's a considerable amount of bidding going into the reputation of the company and so on so that what I suggested was that, as a government official, for one, in New Zealand, I would be very, very reluctant to deal with case after case after case of brands. I don't think the GAC could deal with an operational issue either. That's nonsense. What I suggested was setting up a registry of countries that were prepared to allow brands to use their name or their two-letter codes as they wish.

For example, it's very common for companies which trade in New Zealand to use nz.brand.com. Now, New Zealand would have no problem at all with any brand using nz.brand. And we would willingly put our name on the register because this would encourage e-



commerce in our country, which we as a government are very strongly in favor of.

So, as a way of simplifying this issue, something the GAC could do is make that suggestion. And that would remove a great deal of problem for me as a government official and from the New Zealand government generally. I think there would probably be other countries that would be very happy to see that approach taken. Thank you.

CHAIR DRYDEN:

Thank you for reminding us about this proposal from our last discussion.

Next I have Belgium, and then I have Canada.

BELGIUM:

Oui, madam. Thank you, Madam Chair. I'm going to switch topics here. I'm a bit at a loss here with the agenda. I would like to know what is the point of the agenda we're dealing with, because I would like to talk about dot spa. I would like to know where we are now on the agenda. Thank you.

CHAIR DRYDEN:

Thank you. So I think we have one more request to speak on this topic. And then we will have an opportunity to talk about other gTLD issues not specifically related to country names and two-letter country codes and brands. Okay.

So Canada, you might be the last speaker.



CANADA: Thank you. Canada would welcome efforts by brand registry operators to develop content and to promote goods and services that are tailored to Canadians. We support New Zealand's proposal to establish a register certificate for countries that do not require individual requests for the release of their names and two-letter country codes to brand top-level domains with exclusive registration policies.

CHAIR DRYDEN: Thank you, Canada. So, Peru, are you speaking on this topic?

PERU: I will speak in Spanish. We do not oppose the use of the name "Peru."

We oppose the use of the name "Peru" without prior consultation with the government, with the Peruvian state. So we wouldn't agree on the idea of using the name Peru without prior consultation with the government or with the idea of being included in relationship with countries whose names can be used without any consultations. Just to make sense -- to shorten the paperwork or the times that we are required to use geographic names.

CHAIR DRYDEN: The question of the need to consult with government is not a question. The issue is what is the best mechanism for having that consultation and ensuring that the government is able to make the decision or approve it being used. Okay.

So I had United States. Is that right? Yes.



UNITED STATES OF AMERICA: Thank you, Madam Chair. Just to take a few seconds to concur with the proposal from New Zealand which has already been supported by Canada. While we do agree completely that the GAC as the GAC really would find it very hard to sort of help the brand community deal with individual questions about individual countries. We fall into sort of the New Zealand camp, which is that we would be completely flexible as to how you used U.S. to the left of the dot.

But we do think it's useful for us to -- us as GAC members, that we serve as a resource to other parts of the ICANN community. So we have no problem sort of -- if -- as part of your approach, we would certainly not turn anybody away should they wish to understand what the U.S. policy or position might be. They should feel free to contact the U.S. GAC representative. We do feel that it's important that we are here as a resource. But we fully concur with colleagues' concerns that making these decisions cannot be done by the GAC as a collective. So thank you.

CHAIR DRYDEN: Thank you, United States.

I have Iran. And then I think we need to move to the next item.

IRAN: Yes. Thank you, Madam Chairman. I understand now is the use of a country name on the left of the dot. And I understand that you said that it would be consultation with the government dealing with that



country name. I have a more restrictive view on that. There is no consultation. There is explicit agreement of that government to allow the use of its country name on the left side of the dot. Thank you.

CHAIR DRYDEN:

Thank you, Iran. Okay.

So I think this has been a really useful discussion. And I hope we have given clarity to Philip considering that the Brand Registry Group is in discussions with ICANN about how to come up with an approach. And the transcripts are available from this discussion to refer to later, if needed. So, if we can assist with emphasizing these views, do let us know.

So with that, thank you, Philip.

And I will now turn us back to the topic of gTLDs. We've moved through the specific agenda items we had proposed. Are there any other gTLD issues that colleagues would like to raise? I understand Belgium may wish to have an issue. And, Spain, you are asking for the floor. So -- Belgium, did you want to take the floor now, or shall I give the floor to Spain? Okay.

Please go ahead.

BELGIUM:

I will speak in French. I would like to raise here the issue of dot spa. So let me remind you of two central elements. Dot spa has a meaning in addition to its generic meaning because it corresponds to a city spa. So



it is considered as a geographic name. This fact has been recognized three times in the GAC communique.

So second central element is that the domain name in itself leads to the risk of confusion. And this has been recognized by both applicants in relation to the name of the city Spa.

Initially, there were three applications for this domain name. One was withdrawn. And, according to the principles in the applicant guidebook, there have been discussions between the applicants and the city of Spa. And an agreement was reached between the local authorities and the applicants. In order to ensure transparency, this agreement was communicated to all the GAC members.

Today negotiations that continued with the other applicants have not been successful. So Belgium considers that the negotiations can be considered to be closed. And it is no longer necessary to postpone the delegation of the gTLD. And, according to the applicant guidebook and the national guidelines, Belgium wants the GAC to recommend to ICANN to delegate the gTLD dot spa to the applicant that has signed a formal agreement with the local authorities of the city of Spa.

In conclusion, we believe that dot spa as an issue should not be left aside. Because, in addition to the city name, we also have here at stake the rights of the others. So perhaps a third party could become involved to defend its right, or perhaps the delegation process can be a pure technical process and the third party will not be able to stand up for its rights. So we will write up a proposal. And we will submit it to your consideration. Thank you.



CHAIR DRYDEN:

Thank you for that, Belgium. As a reminder, we had a letter from the NGPC before this meeting seeking clarification from the GAC on two points. So one was to ask the GAC for a timeline about when it would consider its discussions or possible further discussions concluded. And, of course, the reason for this is that this cannot go on and on with the NGPC needing to understand at what point this will conclude or when they would be in a position to make a decision regarding dot spa. The GAC has provided advice in our last couple of communiques, I believe. And the other point that we were being asked to clarify is in terms of the relevant parties, which we referred to in our earlier advice, the NGPC is asking us who the relevant parties are with regard to the dot spa string and the applications related to that.

So thank you, Belgium, for providing us with your perspective on this. And, as I understand it, the request from Belgium is that the GAC would, in a response -- in a letter response or in an advice in the communique, would communicate that the applicants that have come to agreement with the relevant parties would proceed. And so that is the proposal that is being put to us here in this discussion. So what I would like to do is seek comments from other colleagues regarding this proposal. And then we can move on to any other outstanding gTLD issues before we conclude today. I can see a hand in the back. Please -- yes, please. I'm sorry, I can't --

FRANCOPHONE ASSOCIATION: I'm from the Francophone Association. I would like to endorse Belgium's position, because Belgium's position refers to the defense of



the general interest. The best positioned authority to defend the rights of the City of Spa is actually the authority of that city. So they aren't -- these local authorities are the third party. So these are legitimate authorities that request that this issue be resolved with the applicant that has signed an agreement with the city of Spa. That is why we endorse Belgium's proposal.

UNITED STATES OF AMERICA: Thank you, Madam Chair. It strikes me that -- while it's useful to have the update, certainly appreciate that from our colleague from Belgium.

The request to the GAC strikes me as something that certainly had come up in Beijing on the part of two other GAC colleagues, if my memory serves. I believe we were invited by the governments of the U.K. and Greece to actually select a particular applicant at that time for dot basketball and dot rugby, respectively. And, if I recall, the response from the GAC was of great discomfort in picking and choosing particular applicants.

So I think I would have to revert to that position. It would make us very uncomfortable at this point in time in so doing. So I just wanted to respond to that particular request. Thank you.

CHAIR DRYDEN: Thank you, United States. I see New Zealand and Australia.

NEW ZEALAND: Yes. Thank you, Chair.



Just to follow up on the U.S. position, as one as these people who actually intervened very strongly on the question of basketball and rugby, I think it is important that the GAC operate at a high level of principle in giving guidance and advice to the ICANN board and to its committees which are working on these proposals. We have given that guidance. I believe that guidance has covered the issue of spa. It's now over to them to follow that guidance and to implement. It is not a GAC decision, and it's not something that we should adopt. It would set a very, very unfortunate precedent, I think, if we were to do so. That was the position we adopted over rugby, in particular. And it's certainly one that I think still pertains in the particular case of spa. Thank you.

CHAIR DRYDEN:

Thank you, New Zealand. Australia, you're next, please.

AUSTRALIA:

Thank you, Chair. And thanks to Belgium for the update on this issue. It's much appreciated.

I broadly want to endorse the comments of my U.S. and New Zealand colleagues. One thing the GAC has consistently done, not just with basketball and rugby, but broadly, is to avoid picking winners or explicitly picking winners in contention sets. I think this certainly is something that the Australian government would be -- want to look at very much more closely if that's what we were being asked to do.

The other thing that the GAC has a whole has also avoided doing is not recommending that the ICANN board delegate a string. What we've done in the past when we've been looking at a string and no longer



have a problem is say the GAC no longer has a problem with this. You can do what you like with it. Put it through the evaluation process. We certainly haven't ever recommended that a string be delegated. So that may just be a wording issue about a particular sensitivity.

And, following up from colleagues from -- my colleague from New Zealand's comments, in terms of what the GAC already advised here, we said not to proceed until an agreement between the relevant parties are reached. I think that's standing advice. Now, to the extent that agreement with one of the parties may have been reached, perhaps the GAC no longer wants that -- the implicit -- my implicit reading is that we're in that situation where the GAC no longer objects to one proceeding. I'm not sure whether colleagues agree or what the board's view would be on the GAC advice as it currently stands means that both applications need to be held up until agreement is reached with both or whether we are in one of these issues where in a contention set everything needs to be resolved before the set as a whole can move on. Perhaps that's the issue. I'm not sure whether my colleagues in Belgium can clarify. Is that the concern here that this is going to be tangled up and be in a contention set and everything will need to be resolved before the set as a whole could move on? My initial reading is that the GAC advice stands.

CHAIR DRYDEN:

Thank you, Australia. I have Belgium and then the European Commission.



BELGIUM:

First of all, what Belgium proposes is coherent with the approach as proposed by the group studying the protection of geographic names where Argentina has the lead. And, furthermore, if we would allow that both parties would proceed to the next step, that would imply that the GAC advice has no value. Because one or both parties could simply, by refusing to negotiate or negotiating in bad faith, overrule the GAC advice. So the logical consequence of the GAC advice on spa is that a string is delegated to the party which concluded an agreement with the city of spa. And it would also be up fair vis-a-vis the third party which has withdrawn its candidature as a consequence of the GAC advice of Beijing.

As you remember, there was a third candidate. And they have withdrawn their candidature because most likely they did not agree with the GAC advice. And that's, if they're right from their side, if you don't agree with the rules, you stop. But not allowing to pass two candidates to the next stage would also be very unfair not only to the candidate who signed the agreement with the city of spa but also to the third candidate who has withdrawn its candidature.

CHAIR DRYDEN:

Thank you, Belgium. Just in terms of the subgroup in geographic names, that's in process. And we know we have to have further discussion on this issue. Geographic terms we have learned, I think very clearly from this program, are sensitive. And we have not yet, I think, found precisely the right way to address these issues and to find a way for governments to comment. And so this is really an active area of work. We can't draw conclusions from it, because it's underway. And I think



we need to be really mindful of that. But it's important work. And it does need to continue. Because, as I say, this is something we really have learned -- certainly I have -- is just how important the issue of geographic terms in the domain name system, in fact, are. Okay. So next I have the European Commission. Please.

EUROPEAN COMMISSION:

Thank you very much, Madam Chair. Now, I -- I appreciate, of course, that we should take time for negotiations and to try to find solutions between, on one hand, a town that bears this name and where, actually, of course, the -- why we use this word "spa" in any language is -- actually comes from the fact that it started out in this town or at least that's why we use it. So, I mean, there are two stakeholders of this. And there's been a negotiation going on. One has concluded. The other one has not concluded.

And I think -- I mean, I'm not going to dwell on whether or not we should take a decision here or not. But I think it's, again, the question about respecting -- actually, there are different stakeholders out there, that they can find solutions on their problems. If one of them do not find the solution, then how long should we wait? That is just a question. And I think it's also, again, important that the ICANN do respect these sensitivities and that there has been two stakeholders negotiating. And that we have concluded or that they have concluded, one of them have concluded. The other one have not. So I'm just requesting how long should we wait. I'm not saying we should have advice or not have advice. But, in that sense, I also read what the Belgian minister had



written to ICANN about this. And I think this is necessarily also some respect towards what he has to say. So thank you.

CHAIR DRYDEN:

Thank you, European Commission.

So one of the issues here is to what extent is this with the GAC and does the GAC have further comment to offer? And to what extent is this now with relevant parties, meaning the city of Spa and the applicants and the NGPC in resolving this or making a decision.

Okay. So I see maybe one more request to speak. Two more.

We can continue moving through speaking order on this, but what I would like to do is take this out of the plenary and invite colleagues to help our colleagues from Belgium in finding an elegant solution for us. At a minimum, I would like us to reply to the NGPC letter, and that can be a letter from the GAC or we can also communicate via our communique, since this is our main activity when we come to meetings.

And so we need to identify are we just answering the questions that we've been asked, and what is it precisely that we are able to say on this comment, recognizing, again, that it is sensitive for our Belgian colleagues. And I would like us to try to be creative and to come up with something outside of our plenary meeting.

We can circle back to this on Wednesday where we have some time set aside that's for just getting an understanding and confirming what it is that we are going to do in the communique. And so this is a way for us to come back to any issues that we've taken out of plenary to work on

informally outside the meeting. And so we can come back to this on Wednesday, and hopefully we will have some sort of text and some decision about what we will say and via what mechanism we will say it, whether that's a letter or the communique.

So can I do that? I see a couple of requests. I have Iran and Spain.

IRAN:

Thank you, Chairman. I would like to take three comments or make three comments. One, in relation with some distinguished colleague mentioned that the GAC advice has no value. I don't agree with that. Our advice is advice. We have collectively advised something. We should not disqualify our own advice saying that advice of the GAC has no value. It has its value because it's decided. That's that. We are all responsible, and we don't need to criticize ourselves that we made a mistake if it is not a mistake.

So I don't think in that particular case that our distinguished colleagues refer, it was a mistake. It was the best of our knowledge, that advice was valid.

Now, coming the two other point, one point was the same distinguished colleague mentioned that the third applicant, which has withdrawn, may come back. I don't see that is procedurally acceptable. Withdrawn, withdrawn. That's all. The train is gone. Withdrawn to the circumstances. That's all.

Now, the last one, my distinguished colleagues on my left-hand side, he talked up to what time we could get hold of the application. I'm sorry to say that because of the very different conditions, circumstances, and

situation for any string, it is difficult to set aside a time beyond which the application should no longer be taken into account and should be withdrawn. It is very difficult to say that two years after that finish, it is very, very difficult, because cases are different. So I don't think that we reach at that stage to establish a deadline period or time-limit period beyond which the application, due to the nonsuccession or nonsuccessful resolution of the matter should not be further pursued. It is very difficult. gTLD is a new system, and we have to still get experience. Maybe at some time we come to that, but I don't think that at this stage, we should hurry up to establish any time limit. This is the second time at this meeting we heard we should establish a time limit. It is very, very critical and we should be very cautious about that.

Thank you.

CHAIR DRYDEN:

Thank you, Iran.

I have Spain and then Switzerland.

SPAIN:

It's on a different issue. It's not on dot spa.

CHAIR DRYDEN:

Okay. Thank you.

Switzerland.



SWITZERLAND:

I have a brief comment on dot spa, if that's the right moment.

I think following the logic that Australia has put forward that the GAC advice, the early advice still stands, and that we shouldn't think allowed or we shouldn't take a position on one applicant or against another one but remain our principle level, I think from a reasonable point of view the situation is not so clear -- not so difficult.

If a consensus, an agreement is reached with one and not with the other, this means that the one that is not ready to reach an agreement can delay the existence of this TLD for as long as he wants. And I don't think that that should be the goal of this exercise.

So without taking a concrete position on a particular applicant, we could maybe advise ICANN the principle that in case of geographic names or with sensitive names, that if an agreement is reached on where there are several applicants in contention, if an agreement is reached with one, there should be from that moment on a defined timeline that would be given be to the others. And if in that timeline there's no -- an agreement is reached, they all proceed. If not, that only those proceed that have reached an agreement. I think this is something that makes sense, and then we don't take position but we remain on a procedural level trying to indicate a way forward that is respectful of our previous advice and also makes accepts.

This would be my proposal.

Thank you.



CHAIR DRYDEN:

Thank you, Switzerland.

Okay. So I -- I would like us to conclude here. I see three more requests.

Can we take this outside the meeting and work on it outside of plenary?

All right. Since this concerns spa and Belgium are the spokespeople for this, would you like to make a comment before we move on? Okay. Please of.

BELGIUM:

I would like to thank for the time that has been devoted to discuss this issue, and I simply want to remind you that in Belgium, the negotiations are over. There are no more objections regarding the delegation, but we are asking ourselves whether this is in the proper condition or not.

We simply wish to discuss this issue at the GAC, at the GAC communique. Thank you.

CHAIR DRYDEN:

Work on this, please, and I ask colleagues to work with Belgium on this to come up with something that we can then report on Wednesday morning when we prepare for our summing up and our communique finalization.

All right. So Spain, you have another topic you would like to raise. Please.

SPAIN:

Thank you, Madam Chair.

Going back to the attachment of the letter, the GAC board has addressed to the GAC regarding our advice on gTLDs, there is an attachment, attachment 3, on prospective community and geographic TLD launch programs.

I agree that there should be different launch programs for them, especially to take into account the possibility that names of local authorities, public institutions or so could have priority in sunrise periods. However, they propose that there is only a presumption of approval in two cases. When the launch program with these characteristics was foreseen in their application or where there have been similar circumstances or cases in the past.

If you don't fulfill any of these conditions, ICANN would need to revise each of the proposals case by case.

And I doubt whether community or geographic applicants, new gTLD applicants, have foreseen this situation in their applicants. Could it be just fair for them to benefit for this streamlined program instead of having their applicants revised one by one?

This is my question. And if we have another opportunity with the ICANN Board or the NGPC, I will raise this with them.

Thank you.

CHAIR DRYDEN:

Thank you, Spain.



Okay. So we have additional issues or questions to raise with the NGPC proposed by Spain.

Are there any comments on this topic?

Questions?

Okay. I see none.

Okay. So -- European Commission, you --

EUROPEAN COMMISSION: Thank you, Madam Chair. I have a different item is the registrar accreditation agreement in the case of the EU registrars and applicable law. But I don't know if we're going to take that up in later in the day or if your intention is to wrap up as soon as possible.

CHAIR DRYDEN: I think this is really the best opportunity. If there is an issue that you want the GAC to discuss or to raise with the NGPC -- to at least advise colleagues that this is an ongoing topic. So this is the time. If you want to very briefly describe what the issue is in association with that topic, then we can add it to this list of questions which will also help us with the list of topics for discussing with the NGPC. Please.

EUROPEAN COMMISSION: Thank you, Madam Chair. The main issue is that there's a lack of compliance between the registrar accreditation agreement, data retention specifications, and European law in data protection and data retention. So, as some of the GAC members may know, ICANN set up a



process to grant a waiver to those registrars which been based in the EU area could basically sign on to the RAA because that entailed a breach of the European data protection law. We are aware that ICANN has also shared with the GAC by Cyrus Namazi and updates distributed to the GAC some weeks ago making efforts through Jones Day to reach out these registrars as well as some national data protection authorities in Europe. So we, basically, would like to give some pieces of advice because we have been consulting on fundamental rights colleagues, data protection and data retention, a specialist in Europe. And we have a new common position. I think we can provide support to ICANN on how to best support this issue on a country-by-country basis rather than trying to provide an EU-wide waiver, which is very difficult. It might entail a little bit more extra work for ICANN. But I think it will pay off in the future. Thank you very much.

CHAIR DRYDEN:

Thank you, European Commission. Is this something that you could circulate to the GAC list just -- you know, for their information and consideration? Okay.

So we will add this in our list of questions or topics. And we will then have this circulated. After it has been circulated to the GAC, we will circulate it to the NGPC so that they can prepare for our joint session.

So, at this point, I would like to touch briefly on the issue of the Red Cross/Red Crescent protections. And then we can call it a day. So on this issue, we did try to address this before we came to meet here and invited comments on the GAC list. Only Switzerland provided some inputs on this. And we have had, I think, on each of the chair and vice



chair's calls back and forth about Red Cross/Red Crescent. And, precisely, what the GAC has advised in the past and precisely what the GAC is being asked to do now. And we have not reached clarity on this point.

So, rather than continue that lack of clarity in a full discussion here, what I would suggest is that is that, if there is interest in looking at this further -- and I'm looking for a signal from Switzerland on that because I know this is something you've been actively commenting on and interested in -- that there be an effort to work again in the corridors over the next few days and identify what, if anything, the GAC might want to say as far as protections go. And, again, when we regroup on Wednesday, that we would then report back on progress or proposals at that point. So it gives us a bit of time to assess this. In your materials you do have a timeline where we have tried to sum up what it is that we've given as advice in the past. So this may help colleagues in determining what their view may be on the GAC pursuing this further. And as well Tom Dale is going to be looking at this with Switzerland to give us the clarity that we need on this point. Okay.

So I will assume that that is acceptable, particularly as it is the end of our first day. So fine. We will proceed that way. So we meet tomorrow morning at 9:00 to discuss accountability and transparency and how to organize ourselves in relation to all the various recommendations on that topic. Okay.

So thank you, everyone. We've had a really good afternoon of meetings. And let's look forward to continuing in this spirit tomorrow. Have a good evening.



[END OF TRANSCRIPT]

