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SINGAPORE - GAC AM Sessions
Wednesday, February 11, 2015 – 09:30 to 11:30
ICANN – Singapore, Singapore

CHAIR SCHNEIDER: Just for your information, in principle we had a half an hour session going on now, but since it looks like people are trying to take a break, I think we should be flexible and take the break now to let you discuss, but then we will resume at 10:00 and start with a review on operating principles and not have a break after that.

So we have a break now until 10:00.

Thank you very much.

[Coffee break]

CHAIR SCHNEIDER: We'll need to be in time 10:30 for geographic names because other people will come in at 10:30. We have 27 minutes to try and make progress on the operating principles. As you can read in the agenda, it's a continuation of agenda item 2. We're already starting to discuss this on Saturday.

And if I may sum up, try to sum up to get everybody on track. In Buenos Aires -- sorry Buenos Aires, in Los Angeles there was a clear consensus we should try to go for more diversity and balance among the vice chairs and there was a consensus to increase the number of vice chairs to five. This is an informal way, immediately after some intense discussions and agree to look into this so that we get this reflected in the operating principles, we also realized after the experience, first ever experience of the elections, that the election procedures have not really been able to anticipate everything single incident that may happen to allow everybody to vote. So we also agreed we will tackle this and we also agreed that we would map other issues that are important and that may need reconsideration, but that may be more complicated, more controversial.

I would like to make reference to the briefing paper by our secretary, that groups, the issues into three.

And the idea of us, as a leadership team, including also Spain who is leading on the working group and working methods, would have been to get a consensus here on which items should be dealt with and in what priority or what order they should be dealt with.

And our proposal would have been to try and amend the operating principles with regard to the number of vice chairs and with regard to

some election procedures, agree on this now, because only if we agree on this now, we can actually use them for the next elections.

And to start the process for all the other issues knowing that they would take longer because they may be more complex and more controversial.

The discussion on Saturday has shown that we might have been a little bit too quick or too hopeful that this was as easy as we thought. And it seems that not everybody still has the view that we really need five vice chairs and so on and so forth. Or some think we should do all, like align the work on all issues that we only agree a complete set of free work on the operating principles.

So I think now it's the time to get clear on how we are going to deal with this, whether it is possible to maybe start with everything at the same time, but agree to conclude a few urgent items of a revision now and then do the rest later or what your views are on how we should proceed with the review of the GAC operating principles.

I hope I made the situation clear. If not, Spain and others, please complement me, but I would actually like to use the time and give the floor to GAC members and get your views on how to deal with this.

You know the proposal from the leadership team. Yes, the floor is yours. Thank you. Sorry, Trinidad and Tobago.

TRINIDAD and TOBAGO: Yes, I wanted to make the point that based on the operating principles, we currently will elect three vice chairs in this meeting in Dublin. If we

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don't change the operating principles, as you know, we have five vice chairs now.

So the implications are quite interesting if we continue as we are without changing that situation.

In other words, there will have to be a vote and there will have to be the same process again. And if you wanted to keep the existing vice chairs, it can't be done by acclamation. It has to be done by election. So I just wanted to make that observation before we discuss. Thank you.

CHAIR SCHNEIDER: Thank you, Tracy. Other comments, views. Sweden.

SWEDEN: Thank you, Chair. I'm just mindful that this is a high interest topic. I'm noticing that there are a lot of empty chairs in the room. And maybe there was some confusion as to whether or not we should have -- there's a coffee break now or not.

I don't know if people are missing their table neighbors or if this is just assume as we are. I just wanted to put that out. Thanks.

CHAIR SCHNEIDER: We are aware of this, but we have no choice. We need to discuss this now. We can still continue tomorrow of course. But there's some in the room. So those who are in the room, I think that the key element is with regard to these two elements.

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Would you want to have the possibility to officially elect or re-elect five vice chairs in Dublin, yes or no?

Because then if yes, then we need to take action. And would you want to revise the election principles, the election procedures now so that we can use the revised version in Dublin, yes or no?

Or would you make this part of a longer term review?

That's the key question that we'll need to decide now. Thank you.

I see the European commission is wanting to speak. Thank you.

EUROPEAN COMMISSION: Yes. Thank you very much, Mr. Chairman, for giving us the chair.

Well, with respect to the five vice presidents -- vice chairs, excuse me, and the revision to the operating principles, to clarify that. We think this is a very useful and timely change.

It helps to reflect greater regional diversity in line with the existing operating principles which say that to the extent possible geographic representation of the GAC membership should be encouraged.

So we think that it's a very useful thing. Given the size of the GAC, we think also that five vice chairs is very appropriate and reasonable. You are effectively operating now with five vice chairs, so we think that's a very useful thing. It's useful also to make that reflected clearly in the operating principles.

The other thing that we think, as a de minimis rule or de minimis change I should say, would be the revision and updating of the election

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principles because that's also very important for your Dublin meeting. We need to have that in place and clarified before going to elections in Dublin.

So for those two reasons, we think those two aspects should be amended, adjusted, clarified now. Thank you.

CHAIR SCHNEIDER: Thank you very much, European Commission, for that clear statement. I see Austria.

AUSTRIA: Thank you, Chair. Before we can support what the European Commission just said, I also think that if we want to have a balanced regional diversity, then it will be much easier with five vice chairs than with three. So my proposal would be to stick with that.

But then we have to define what our regions, what it means geographic diversity, because if you don't do that, then it might be difficult to count vice chair to a specific region.

So I think this is one precondition to have some sort of definition or description of the regions. And if we have that, then the second task would be how to guarantee this diversity, because I don't think that it's appropriate to have one basket of candidates for each region and you then select one candidate from this basket.

I think this works fine if it is a very large group, but GAC isn't that large, so that wouldn't guarantee proper sites.

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So I think this these are the two items we have to discuss -- how to define the regions and if we have the region, how to guarantee that during the election process it's balanced.

CHAIR SCHNEIDER: Thank you, Austria. Thanks for alluding to the regions.

The problem is and we've already started to discuss this, that it is not really -- if you want to have a hard black and white solution and knowing like on binding GAC members to regions, the current, the ICANN regions are difficult because they have very imbalanced numbers of memberships.

So we might have to look for another definition of regions and then there are a number of alternatives that we could look at. UTI and other regions, but this is something we may have to have more thorough discussion on which in the end may be a good way of dividing the GAC -- not ICANN but the GAC into regions that we would have black and white balance or distribution.

But we are not there yet. That may take us some time. I think it's actually if line with what you say. We want to get something where the leadership as a whole is considered to be balanced and diverse. For the time being, I think the decision to enlarge the vice chairs, I don't think it's necessary, even feasible to have a clear retribution to regions. We have to have a rough consensus of what we want to see. I see Germany and Denmark and the U.S.

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GERMANY: Yes, thank you, chairman. First of all, I like what the previous speakers had said with respect to the need of changing our election principles because this seems to be important before we have our next elections.

In respect of geographical diversity, I fully concur with the explanation you made that we should not necessarily stick to a very concrete and narrow understanding of this region because it might complicate it also, the election process.

And also, I would like to mention that in the GAC, we do not have the principle set elected vice chair from one region. Stands for this region, as elected representative of this region, I think we have an understanding that every country speaks and government speaks on itself and not via some regional representative. Thank you.

CHAIR SCHNEIDER: Thank you, Germany. Denmark?

DENMARK: Thank you, chairman. Just to repeat more remarks from our side, we would like to see the necessary changes to the operating procedures to be agreed today so we can have the process so we can elect five chairmans later on this year, according to the new rules and also change the voting procedures. That is what we really would like to see here, which I also indicated other questions and that might also be how we really make sure that we have a geographical representation if we're going to divide it into different regions and all the possibilities. That is not according to our view possible, and I think it was in line what you

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indicated to solve that and how that would have to be solved in, let's say, the next round. Thank you.

CHAIR SCHNEIDER: Thank you, Denmark. I have the U.S. next.

UNITED STATES: Thank you, Chair. And thank you to colleagues who have spoken before me. I think a lot of what I'm hearing actually reinforces some of the interventions I made on Saturday.

One of our biggest concerns is that we're tackling revisions to the operating principles on a very piecemeal basis. And finding that if you try to tackle just one part, then you are opening the door to many, many questions that involve necessary revisions to other parts of the operating principles.

As a whole, the principles are simply not very clear, and the entire set of operating principles really does need to be looked at instead of this approach where we say a document with some proposed edits here and there, not covering all the possible changes that probably should be made. There are some difficult discussions and decisions that do need to be taken, we think.

The issue of regional diversity as an objective is one that the United States completely supports. We do think as the GAC's membership has grown to 140, there should be an opportunity for all of the regions to be represented on the leadership team.

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However, we take the point that we're not structured to work on a regional basis. I think you or Christian said quite correctly, the ICANN regional breakdown doesn't really make sense.

There are U.N. breakdowns. There are the RAR regional breakdowns, which frankly those of us in North America feel is a little more workable for us, simply because in ICANN land, North America is only Canada and the United States, which seems silly.

What I'm trying to get at is this piecemeal approach I think potentially triggers many more problems and headaches than it solves. So I am very, very hesitant about adopting a piecemeal approach here. I fully understand that we need to have elections at the end of the year.

Right now the operating principles do provide for three vice chairs, and we did manage to use the provisions for officers to accommodate the fact that we had good regional diversity and we've made it work.

So, I'm very hesitant to know what precisely which edits to which part of the operating principles are you seeking agreement on today?

And whether we're all on the same page as to the unintended consequences of approaching this on such a piecemeal basis. Thank you.

CHAIR SCHNEIDER: Thank you, U.S. Just maybe I and others understand clearly. So far the others have expressed a preference for amending the operating principles with regard to the number of the vice chairs and with regard to the election procedures.

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What you say is you would be hesitating to do this now, and you would prefer to have this embedded in a more holistic review, do I get you right there?

Okay, thank you. We take note.

There were more. Yes, Egypt.

EGYPT: Thank you, Chair. Actually, I tend to agree with the holistic approach more. I was just -- I have a question.

Why if we don't review the part regarding the vice chairs now that we're stuck with three vice chairs next time?

Because, again, the previous elections we had this principle that we relied on in extending the five vice chairs. So I think even if worse comes to worse and we could not conclude, we can still do the same -- rely on the same principle, just seeking clarification.

CHAIR SCHNEIDER: Thank you. I may give the floor to Michelle, but first, the problem is that we're actually -- we called these vice chairs, vice chairs. But formerly they're what is the additional special officer?

The agreement in Los Angeles is that we would start calling them vice chairs with a view to expand the number of vice chairs to five. If there's now not any more disagreement to do that, then I would like to ask Michelle what that would mean for the elections.

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Would we then have to call them special officers compared to the three real vice chairs?

Would we need to do the voting procedures for the three vice chairs and then in addition -- I'm not really seeing too clearly on how we should actually continue with having five people in a more or less sustainable and clear way. But of course this is up to the GAC.

So maybe, Michelle, you could help us in telling us how this could or should be done. Thank you.

MICHELLE SCOTT-TUCKER: These are simply my early thoughts. This is Michelle Scott-Tucker from the GAC interior department.   My earlier thoughts were we call for nominations at the Buenos Aires meeting. The nominations will close 60 days before the Dublin meeting, which will be sometime in August I think.

When we call for nominations, if we only receive five nominations which correspond to the five people who are in the leadership team now, our job is simple. They're reappointed by acclamation and we don't need to have a voting process.

If we get more than five nominations from these five them, if we get six or more, then yes, we'd need to go to a vote.

I suspect we could get around the issue if we haven't changed the operating principles by saying we're going to vote for three vice chairs and two special officers or whatever the name, two additional officers. We could do it the same way that we ran the last vote. The people --

the three who received the most votes become vice chairs. The next two down the list become the special officers. I think we could do that under the current operating principles. I'd need to look at it more closely, but I think we could do that.

CHAIR SCHNEIDER: Thank you for this. So what do we do?

We have seven minutes. Maybe we can continue. This is not something that we need to put in the communique. This is an internal issue, I guess. So we have time to continue tomorrow.

Yes, Michelle, please.

MICHELLE SCOTT-TUCKER: We could get away, as I just explained, we could get away without changing the number of vice chairs at this time. If we don't change the operating principles to allow on-line voting, then we will use the same process that we used at the Los Angeles meeting, which, as you all pointed out in Los Angeles, was a far from perfect process.

I have a meeting with the ICANN staff this afternoon to talk about an on-line voting tool. So my preference would be, if you make no other changes, please make the change that allows us to use an on-line secure voting system or any other system, but allow the GAC to decide what sort of system they use because at the moment, the operating principles specify a particular process.

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CHAIR SCHNEIDER: Thank you for this very important point that we should seriously consider.

I see the European Commission would like to speak and Sweden and Austria and the Islamic --OIC.

UNKNOWN SPEAKER: League of Arab States.

CHAIR SCHNEIDER: Yes, League of Arab States.

UNKNOWN SPEAKER: I don't want to belabor the point. I think Michelle stated it clearly. I said it about three times. It's essentially essential, we have to modernize it. I'm appreciate for the argument of holistic approach. That doesn't mean we close our eyes, forget what was in the minutes in the Los Angeles meeting. I think the GAC, if anyone, looks at the minutes or reviews these things would look a bit foolish to then go to the Dublin meeting, having said in Los Angeles clearly in the minutes, we want to amend these particular aspects, particularly on the election procedures and then in Dublin we keep the old ones. We would look quite fool irk. That's my own assessment. This was in the minutes from this group. I think a holistic approach would be nice, nice to have. No one is suggesting, at least we're not suggesting any major changes, any definitional changes be made, just those purely operational adjustments is clear. I leave that to your good judgment.

CHAIR SCHNEIDER: Thank you. We have three minutes left so please be brief. Sweden, Austria and the Arab League.

SWEDEN: Thank you. I'll be brief. I suggest we do both. To make the change, we will have a discussion. Some things are easy, some things aren't as easy. Maybe the geographic representation issue will be a long discussion, maybe it will not be a long discussion. It could be done fairly quickly this time and we will have done when we come to Dublin what we set to do in Los Angeles.

If we were to do -- I fully support the idea that we should make the holistic adjustment review of the operating principles. The question is how long a time will it take?

We started 2012 apparently. The work stopped because of other more pressing issues. Possibly more pressing issues will again take over and it will take forever to complete it and there are some really hard discussions ahead of us when we start doing this.

If we are making the amendments now to have the vice chairs, and if we discovered then that there is a problem with this, well, we can change it again when we have the overall big review and if it needs to be amended, work with the full. Thanks.

CHAIR SCHNEIDER: Thank you, Sweden. Austria?

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AUSTRIA: Thank you. I fully support what Sweden just said. If you realize the amendment doesn't work properly, then we change it again. It happens daily all over the world in parliament when legislators invent new regulations that don't work.

But what I wanted to say, thank you, Michelle, for your proposal, but I'm not quite sure if that would work because vice chairs have a clear competence, they have clear powers. The officers, as you called them, it would be nice labor but they wouldn't have powers. People sitting at the chair, but they couldn't take over the roles of the powers of the other chairs because it's not for the seniors for the operating principles. What we want to do if we have five vice chairs and the decision has been made, then we have to amend the operating principles properly. Otherwise, it wouldn't work legally. Sorry.

CHAIR SCHNEIDER: Thank you. Actually for the record because it has been noted as Australia the previous speaker was Austria in the script.

Arab League.

LEAGUE OF ARAB STATES: Thank you. I would like to note our position as an observer member. That the GAC, that we represent 22 countries out of which about 11 only are members of the GAC. Maybe seven or eight are maybe able to attend. We have applied for and passed the evaluation phase for the gTLD for the Arabic and we'll be running new gTLDs under the 22 member countries.

I think then we should be fully involved with issues that GAC are engaged in, like new gTLDs, accountabilities and other issues. With the absence of any clear principles or criterias governing the type of GAC memberships, I think we should at least be granted one vote membership like the EU and African union. Thank you.

CHAIR SCHNEIDER: Thank you. We took note. So I asked it to be brief because it's actually half past and we should let the others in for the next session. Thank you. Germany.

GERMANY: Yes, thank you, and also I would like to echo what other colleagues had said as a need of clarifying our operating principles in the respect of elections.

I think there are (indiscernible) explanations in this text as it stands that may lead to the situations that a delegation may not be able to vote for certain reasons.

I just want to mention one. What happens if the delegate is ILL? A simple issue. Then the delegate may not be able to participate in the election.

If we take the election process, a serious process, and I take that for a serious process, then it's a non-go to have -- or prohibit that one delegation isn't able to vote.

Thank you.

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CHAIR SCHNEIDER: Thank you very much. And to conclude, I think and note that we have -- that we're all in line that we need a holistic approach and a long-term revision, but many members have strong feelings that there should be a quick fix for one -- at least one, maybe two, items. We don't take a decision now. We will take this decision tomorrow so there's still more time to discuss informally.

With this, I will end this session and hand over to the working group of the GAC led by Argentina on the protection of geographic names. This is, of course, another important and relevant issue, so please, Argentina, you have the floor.

ARGENTINA: Thank you very much. Thank you, everyone, for being with us this morning.

We have one hour, and I will invite those speakers in our session to join us. If our colleagues can give us some space. Thank you so much.

Julia, would you be so kind to -- thank you, my presentation.

I think we are missing one speaker from ALAC. Rafid, are you in the room? Okay. Maybe he will join us later.

Okay. Are we set? Thank you so much for being with us this morning.

This is a continuation of the work that we started in Buenos Aires almost one year and a half ago, because there is a mandate for the GAC in trying to refine the rules for next new gTLD rounds in order to avoid

conflicts that we had with some -- with some terms related with geographic names and other community issues.

So thank you very much.

If you can show me the next slide, Julia, please.

Here's the agenda. Unfortunately, we have only one hour time. We all have very tight agenda in this meeting, a lot of things going on at the same time. We tried to arrange this meeting on Monday to be more -- perhaps in another room, not in the GAC room, but it was not possible. Honestly, we did our best whew couldn't so you're welcome to join us here in our room.

I will do a very brief presentation of what we will talk about today about the comments that we have received. Then I will invite the panelist that we have invited to the session, which is the ALAC, ccNSO, Internet business council of Africa, Brand Registry Group and the GNSO.

There were many comments. I will show you the list in a minute. Unfortunately, we don't have time to invite all of them but we are willing to receive comments after the brief presentations we will have from our panelists and mine, and then I will present to you some next steps.

What I will do now is I will switch to Spanish for a brief presentation of the background document, the comments, and some comments after the comments, and the next steps. And then I will switch back to English when presenting our speakers and having dialogue with you, with the audience.

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Thank you very much. So can we switch to the next one?

And before switching to Spanish, I would like you, please, to join me in thanking the translators and their great work.

[Applause]

Thanks for being with us all the time. I will do my best to speak slowly. They have asked me please speak slowly. I will try. So if I don't, you just wave me.

Thank you very much for being here with us. As I said before, the GAC Durban communique, one of the portions of the communique said that we are going to work with ICANN so as to refine the rules for the future rounds of new gTLDs so as to avoid the same conflicts that we have had with geographic names. The mandate is much broader, but in this session we are going to devote ourselves to geographical names. Why? So as to lower the uncertainty for all parties. It's not just that the process has been difficult for applicants, but it has been difficult, as well, for governments, and it has been difficult for the communities. The process has not left at all happy. So the idea would be to avoid this in future rounds, to avoid the use that some parties may consider a misuse of certain names that are related to community, regions, countries, et cetera, to lower the number of conflicts in the new rounds of new gTLDs and, additionally, and this is very important, to have some background information, background material for the countries and for the applicants and for ICANN that may help define the rules of the next rounds of new gTLDs.

The background document that has been opened for comments has been prepared by the working group, has been reviewed several times. It has been changed over time because it added some comments that we have received, some references that happened in some other processes like, for instance, the comments of the experts' advice regarding the .AMAZON issue. The document includes some actions at national level and regional level to protect geographical names such as some text, some wording for a future Applicant Guidebook. We don't know whether that will be the name or not in the future. And it also suggests the generation of the best practice guidelines -- I don't know how to say it in Spanish, but it will be best practice guidelines in English, and some next steps.

As you can see, we have received this full list of comments, 25 comments, all of them very interesting. The presentation, you have the links in the presentation and the slide deck is available online.

You may also refer online to a summary of all these comments. I would like to thank Michelle. Michelle, where are you?

I want to thank you for the -- Michelle has done a wonderful job helping us use the -- help us prepare a document, and it is available online.....

...what we are talking about, if you can.

We have a summary of all these comments. A summary prepared by Michelle was reviewed by the working group. The reference document was translated into all the languages that the language service department provides, so it's available for other communities, and this is

the summary. You see on screen, as Julia is showing, the summary. And you may check it.

Well, the idea is to review some of the comments that we've received, and let me say from all these comments, they may be divided into three groups. Some comments make proposals, actual proposals on how to improve the process, how to add more information, or, let's say, actual proposals on how to move forward.

Some other comments do not agree with the document, but they propose some ideas on how to engage in further dialogue. And some others do not agree with the document at all.

The reasons for not agreeing with the document, I have summarized them. In general, you can see that they are similar, but this is a summary. The documents are a lot, but the reasons, not to (indiscernible), say that the document imposes a substantial burden for the countries and for ICANN as well as for applicants, the geographical names should be better defined in the document; that the concept of public interest should be better defined in the document; that the governments do not have exclusive use of geographic name in any context; that the document disregards relevant issues of international law; that it makes false understandings and misapplications of law; that ICANN is not the appropriate forum to create new rules that look like intellectual property rules regarding geographical names; that governments do not have any rights on geographical names; that the changes should be developed through PDP process at GNSO; and that we are suggesting solutions that provide no evidence that there have been a problem.

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This is my last slide. Some general comments. We don't know whether ICANN is the right place to discuss these issues or not, but this is where the new gTLDs round took place. And so we, the governments, had the opportunity of providing a GAC advice and providing early warning. I don't know if there is any other space available. Things are happening here. The round of new gTLDs happened here. There have been problems. There have been problems faced by communities, applicants, governments. And if we do not change any rules, we will have the same problems in the future. This is the concept on which the working group has based its work. So we have received very good comments while we prepare a new version of the background document, and we will distribute it so as to be reviewed at Buenos Aires meeting.

If you can show the next slide, please, Julia.

This is all the links that you -- where you can find the latest version of the document, all the translated versions of the document. The GAC Web site with all the information and all the GAC's Web space where all the summaries and all this information is here.

So I now would like to give the floor to our distinguished panelist.

We had an order, I think.

We have ALAC in the room?

No? Okay.

We will start with Annebeth. Annebeth, would you be so kind to give us your thoughts about the comments made by ccNSO.

Thank you.

ANNEBETH LANGE: Thank you. My name is Annebeth Lange, and I am from .NO, the Norwegian registry, and I'm also the co-chair of the Cross-Community Working Group on the use of names of countries and territories as TLDs. This working group was set up following the recommendations of the ccNSO study group on this issue. The study group identifies a range of issues around using different forms of the names of those countries and territories that are listed on the ISO 3166-1-2 code standard as top-level domains. In particular, the study group focused on whether, under the current and potential policies for selecting a top-level domain, a country or territory could be used as ccTLD, IDN ccTLD, or a new gTLD.

To put it in other words, which policy or procedure is applied to a country or territory name as TLD determines the applicable governance framework. The structure of relationship between the relevant stakeholders, including end users, and their respective roles and responsibilities.

This is not just relevant for the selection or delegation stage, but also for subsequent stages after a country or territory name top-level domain is operational. The Cross-Community Working Group was established to try to develop a framework on using country and territory names as top-level domains. It is envisioned that once developed, adopted, and implemented, such a framework would, at the a minimum, improve the predictability and minimize confusion for all relevant stakeholders on use of these names.

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This Cross-Community Working Group has members from the GAC, GNSO, ccNSO, and ALAC.

To be clear, the scope of the Cross-Community Working Group is very limited. First, this working group only looks at different categories of names of those countries and their subdivisions that are listed on the ISO 3166-1 list. It does not look at regions, provinces, countries, or other geographical names.

Secondly, the scope is limited to top-level domains, so second-level domains such as Norway.com, NLD.org or .INFO are out of scope.

In the view of the ccNSO Council, there seems to be an overlap between the work of this group and the GAC working group on geographical names. As I said, the mandate for the cross-community is only country and territory names according to the ISO 3166 list, the list where the ccTLDs can be found, not other geographical names, and only country and territory names used as TLDs, not second level.

And since the GAC working group also is working on country and territory names, we were of the opinion that there is an overlap here. In our view, this overlap should and could be avoided so we are not working on the same issue and perhaps come to different proposals or solutions.

The Cross-Community Working Group has discussed the possible conflict with Olga Cavalli and Elise Lindeberg in a meeting in the working group on Monday. We appreciate and understand that GAC has strong view on this issue. However, to use the time for both you and us most effectively, we think some clarification between us could be beneficial.

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We would appreciate if the GAC would at least delay its work on names for those countries and territories that are listed on the ISO 3166 list and participate in any way it deems appropriate in the work of the Cross-Community Working Group until this group has completed its work and, instead, concentrate on the other geographical names.

If necessary, the GAC could always take up the thread again if you are not content by the result presented by the group. We, from our side, will inform the GAC more actively when progress is achieved.

Thank you.

ARGENTINA: Thank you, Annebeth. Could I point you to part of the comments sent by the ccNSO and perhaps have your views about it. ICANN and government encourage applicant to get in touch with related local government to try to reach agreement in advance. Would you have a comment about that? This is part of the comments sent by the ccNSO to our group.

ANNEBETH LANGE: That's right. So what we sent in our letter is that we know that not government and not anybody else in the legal judicial sense have a right, but that doesn't mean that we can't reach an agreement with the whole community, discuss it and find a good way to -- how to use it, how to not to use it, and to avoid confusion out in the market. And in that way, it would be better to discuss things in advance if we could find a way to agree, even if you don't have a legal right.

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ARGENTINA: Thank you very much, Annebeth.   This is a very valuable comment.
                               Thank you for all the efforts in sending the comments.

                               Rafid, so good to have you here. We have the ALAC. Can you do your
                               comments next, if you can? Thank you. Thank you for being with us.

RAFID FATANI: Hello. Rafid Fatani for the transcript record.

                               Without echoing too much what a lot of my colleagues have been
                               saying, I think we just need to state that the ALAC believes the
                               geographic namespaces should be protected in the next round of the
                               new gTLDs when they come.   In November we released a statement
                               supporting the GAC statement and we also requested amendments to
                               the relevant clause 2.1 -- 2.2.1.4 in geographical names review from the
                               guidebook, and we requested that international treaties must address
                               the rights of countries in relation to geographic namespaces.

                               I think I need to state, though, here very clearly that the ALAC has
                               always cautioned on the liberal side of this argument, but we do seek
                               clarity, and we think that's very important, and we do believe that
                               checks and balances need to be put in place that weren't in place in the
                               first round.   And this needs to be based on data collected on the first
                               round of new gTLDs that were released.

                               You know, it's very important that this -- that the protection of the end
                               user is in place, and we have not in any shape or form been against the

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release of geographic namespace strings. But again, we just caution and we seek clarity on the matter.

ARGENTINA: Thank you, Rafid. Thank you very much. I just was reviewing your comments. I think you made a very valid point about data collection. Maybe we can get in touch with ALAC in trying to see how we can collect that data and with ICANN and try to have that background information to be included in the document.

RAFID FATANI: Yeah. We'd very much like to do so.

ARGENTINA: That's a very good input.

Now we have -- And thank you for the brevity of the comments so we have space for the audience also to express.

Laura, would you be next, please? The Brand Registry Group was one of the -- is among the comments that did not agree, basically, with the document, but they sent a very valuable ideas about thinking about the context of the -- of the strings request and the problems, and also very valuable for us, they want to engage in further dialogue. And this is what we really are seeking, is dialogue and (indiscernible) uncertainty.

So, Laura, thank you very much. She works with Philip Sheppard and the Brand Registry Group. You're welcome, and the floor is yours.

LAURA COVINGTON: Thank you, Olga. Thanks for including us in this session.

I'm Laura Covington, I'm vice president of policy, public policy at Yahoo! but I'm here today in my capacity as the vice president of the Brand Registry Group, or BRG.

Our interest as .BRANDS we think align very closely with GAC interest in protecting users of the Internet and the public interest. We do oppose the draft proposal on the protection of geographic names in the new gTLDs process, and I just want to highlight four short points. First is, as Olga mentioned, the proposal fails to recognize the importance of context. Many geographic names have multiple meanings and uses, and in addition to geography they may also be generic terms or they may be used as brand names or trademarks. The proposal in its current form assumes that the primary significance of such names is always going to be its function as a geographic reference.

I'm sorry so sorry. Okay. I'm sorry. I go too fast.

Should I go back?

Okay. I'm so sorry.

The proposal, to reiterate, in its current form assumes that the primary significance of these kinds of names is always the function as a geographic reference. However, for a domain name, the primary significance to users may well be as a brand. Our concern is that instead of minimizing confusion, the proposals default to geographic meanings always is likely to cause confusion, undermining the consumer protection that is inherent in brands as well as freedom of expression.

Second, there is no basis in international law that gives governments exclusive rights to geographic names. ICANN is not the appropriate forum to change the law. Longstanding treaties, to which many GAC members' countries are parties, recognize that private parties may, in some circumstances, acquire rights in geographic names.

Third, the community is overwhelmingly opposed to the proposal in its current form. 92% of the comments submitted oppose the proposal, and the majority of those comments came from organizations representing a much wider underlying membership. Organizations with thousands of members around the globe.

The BRG also provided a summary, I believe, to the GAC secretariat and the GAC chair, and I encourage you to take a look at that as a short summary as well.

Fourth and finally, the proposal creates enormous burdens and uncertainty, both for future applicants and for governments. The new proposal is extremely open-ended in the way it would be implemented, and for all of these reasons the context, no basis in the law, the broad community opposition, and the burdens and uncertainty. We oppose the proposal.

We do appreciate the opportunity to participate in the discussion and are happy to continue in that discussion.

Thank you.

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ARGENTINA: Thank you, Laura. Thank you for your frank comments. And I would like to stress that they are very similar to many other comments sent, and we understand that there are some legal reasons that are based -- where your comments are based. But we do appreciate those that send the comments and would like to engage in further dialogue. So we may get in touch with you in order to refine the document. Would that be okay?

LAURA COVINGTON: Absolutely.

ARGENTINA: Great. Thank you. Thank you very much.

                            We have the GNSO next, to my right. You have the floor. Thank you.

HEATHER FORREST: Thank you, Olga, and thank you GAC members for having us here today. My name is Heather Forrest. I'm here with Carlos Guittierez. We bookend your chair, Schneider. Carlos and I are both members of the GNSO Council and we're here today to provide some perspective from the GNSO. Article X of ICANN's bylaws set out the GNSO's mission, which is responsibility for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains. Article X, Section 2 sets out the structure of the GNSO, comprising various constituencies and stakeholder groups.

                            The use of geographic names as gTLDs very clearly falls within the GNSO's remit under these bylaws.

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Comments were submitted by the Registry Stakeholder Group, the business constituency, the ISP constituency, and the Intellectual Property Constituency. It's important to note that given the diverse range of interests within the GNSO, it's customary that the views of the GNSO are not captured in a single document or in a single comment as, for example, occurs in the ccNSO. These separate voices are enshrined in ICANN's bylaws and, indeed, are the heart of policy-making within the GNSO.

What we can do effectively here, and given the brief time, is simply highlight the existence of these four comments coming from the GNSO and provide a high-level introduction to them. And I'll leave it to my colleagues in the various constituencies and stakeholder groups to answer specific questions if these arise in relation to their specific comments.

To summarize the comment from the business constituency, it raises concerns about the impracticality of searching to determine if a new string is a type of geographic name. It notes that the agreement or nonobjection requirement raises an unclear burden for business users applying for new gTLDs. It focuses on incompatibility with law and lack of clarity on the definition of public interest and how and by whom this definition would be applied in a dispute. The Registry Stakeholder Group endorses these comments of the business constituency and points to the impracticability and unreasonableness of this approach to determining whether or not a string is a geographic name. It highlights the risk of subjectivity, unpredictability, and unfair treatment in determining whether a string falls into a category identified in the proposal. It indicates that the protection has no basis in international

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law and points to the process under the bylaws -- under ICANN's bylaws being requesting an issue report and requesting a GNSO PDP.

The ISP constituency has pointed out that the proposal is based on an unclear and overly broad definition of what constitutes a geographic name and provides no clear definition of public interest.

Finally, the IPC, the Intellectual Property Constituency, notes that government consent requirements and the explanations that have been provided for it lack a legal basis, points to the inappropriate assumption, as has been noted by the Brand Registry Group today, that all uses of a geographic name are inherently geographic and, therefore, misuse and contrary to the public interest.

The proposal relies on an inaccurate understanding of trademark law, and the proposal scope is overly broad in that it extends beyond strictly geographic names to regional language, people descriptions, and cultural terms.

And I would now like to ask Carlos to offer further comments from his perspective. Thank you.

CARLOS GUITTIEREZ: Thank you very much. I just want to note that the Cross-Community Working Group has been created and chartered to deal with this issue between the ccNSO and the GNSO, and the group has already proposed a straw man to start working on this issue on a timely manner, and it's focused on the list that existed before but is looking forward for a procedure, a framework to have a system to solve these issues in the future. The straw man is out and everybody is invited to participate,

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and I will invite the interested members of the GAC also to participate and not wait a few months until you get it under the quick-look mechanism.

ARGENTINA: Thank you very much to the GNSO for the comments.

In relation to the Cross-Community Working Group that was mentioned by our colleague Annebeth and by the GNSO, what we would like to comment is this is an internal group of the GAC. It's work within the GAC. I think it's -- Would you please? Thank you.

I think it's important to differentiate the GAC is part of the Cross-Community Working Group. What we think is that the Cross-Community Working Group is focused on names that are in lists.

Our work is to see how we can diminish the uncertainty for those names that are not in lists and some countries, regions, and communities believe that they have a meaning for them apart from trademark law protection or right.

Not being a lawyer, I would like to make a question to our colleagues here, to all the panelists and maybe to the audience.

Those laws that you refer to that don't consider a geographic name being part of -- that countries don't have any right of a geographic name and all the legal frame that you mention -- again, please forgive if I'm not using the right words. First this is not my first language and I'm an engineer, I'm not a lawyer which is difficult for me.

Are these laws and legal framework, does it apply to gTLDs or to other figures like trademarks?

Is it the same for you?

GTLD or the trademark?

Why am I asking this?   Let's think about the name of my country, Patagonia, we have a lot of companies called Patagonia.

Wine, food, I don't know (indiscernible), restaurants.   They are all legally registered under the trademark law of Argentina.   They all pay taxes and they are companies that should be protected and they use the names, but they're different categories for these names, and there is no conflict.   There is clothing, there is wine, there is meat and (indiscernible) and the name Patagonia, and there is no conflict.

How do we fit that legal framework into a gTLD?

If only one company has it, it's global.   What happens with the other brands that are legally registered in my country and it would come to us and say, you didn't protect us?

UNKNOWN SPEAKER: I think the important thing -- there are two points in response.   One is the trademark law, international trademark law and the treaties which support it and have explained it and to which many countries are signatories, applies regardless of whether we're talking about the off-line world or on-line world.   So it's certainly applicable in the context of gTLDs at whatever level would be the view, as a lawyer, as an IP lawyer.   All too unfortunately not an engineer.   But our view would be that it

does apply. Certainly in the context of dot brands, most of the dot brands will be using their gTLDs in the context of offering goods or services that are narrowly categorized pursuant to their brand, pursuant to their trademark. There should not be a conflict there as amongst others.

The way the system is set up, it's first come first served and there are auctions, other processes by which companies can, you know, attempt to acquire those rights. Or countries, if governments wished to have their own, you know, dot whatever.

I don't view there as being that much of a conflict coming from the receptive dot brands. I think the others within some of the working groups may have broader comments for outside of the dot brands context perhaps.

ARGENTINA: Yes. I made a mistake. We have one remote participant. So I will defer the comments -- sorry, Eric. Is that okay?

Can you do it later?

I will give the floor to our remote panelist and we have a remote comment also from our European friend and then I will open the floor. I did a mistake. It's (indiscernible).

Do we have the remote participant?

Gideon, can you hear us?

GIDEON ROP: Yes, I can hear you very well.

ARGENTINA: Great. Would you be so kind to tell us who you are, who you represent and briefly your comments submitted to our document. Thank you.

GIDEON ROP: My name is Gideon Rop and I represent an Internet business in central Africa which applies by membership and West Africa is a founding member. I'm from west Africa and I have (indiscernible). That is about us.

I will go to the flags and, first of all, I would like to say that the town geographic name is overbroad. It's not clearly defined. So the idea is to create a -- (indiscernible). It's also possible that this will be very broad and not carefully defined which brings a risk for denying us of the advantage and giving us the governance suggestion.

So we need to -- (indiscernible) in putting such in a database. (indiscernible).

On the geographic name database, we would have the applicant so that there will be a system where the user can be able to, you know, check the kind of names which will have, the difference -- the name, the country, the location and the appropriate international goods difference -- (indiscernible).

You know, preparing that list that has all the details so applicants can then use a name that is not in the geographic name database. Just like

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we say, you know, that definition of geographic area, what is the specific definition do we have for that geographic name.

Going to the next slide, it's the public interest.

So this one I have a question. So the panel I have a question for the GAC committee to answer this. How will public interest be secured in the instance where disagreements come between ICANN and governments?

What can we find out and what will become -- (indiscernible)

So public interest is key here. We may increase the geographic names, the geographic domain names. We need to expand the domain space.

So I mean, who cares for the public interest?

Who is in care of the public interest?

Then another thing is awareness. That's the next slide.

Awareness, this is very important. I must say in Africa, we had very few applications. Most of them are geographic names. So there is a great awareness built in because apparently not many people know about this and such there could be, you know -- we need to prevent a situation where the government prevents like we see trademarks from business -- (indiscernible). Because the whole country should be encouraged to, you know, to enhance (indiscernible) one specific place by submitting -- (indiscernible) -- in regions and subregions.

It must be noted that this could take many, take very many avenues in freedom of being businesses. Prepare for the coming businesses, it

should be properly documented and thought out because we still need the businesses, we need to protect the rights of the businesses.

And so, again, the names of the geographic locations can change from time to time. What are the steps, situations to manage such?

That would be about what I'm saying. We have a summary of questions. I think the entire conversation would be given for all of these to be able to see. Thank you very much.

ARGENTINA: Thank you very much, Gideon. Gideon sent us a very interesting PowerPoint which is larger. I didn't let him talk too much because we were not having time. Your PowerPoint will be uploaded among all the materials we have for this session and all the background information.

Do we have Giacomo on-line?

Are you there?

GIACOMO: Yes.

ARGENTINA: Would you share with all of us the comments you sent to us and the GAC in relation with some community applications, comments?

GIACOMO: Yes. Thank you very much. The approach is a little bit different because I want to focus on what a different aspect of community-based

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application that are those that are not geographic. Because community comprises of two areas.

Even if 5% of the application for the best gTLD around was community-based, parts of the geographic there are others like.

.ECO, .KIDS, .SPORTS, .HOTELS (indiscernible), .RADIO that were submitted by the broadcast unions were community-based applications, too.

So they went through the normal process exit for those that went in contention. And many of the community-based application that were not geographic went into contention. Only one geographic-based community application went into contention was Alzac. All the others were all geographic based.

For this application was created a special process for those in contention that is called CPE, Community Priority Evaluation, that was outsourced by ICANN to external evaluators.

The problem is that the criteria that are in the guidelines are very, very restrictive, as you can see by the results of this process. Because of all these applications, 75% have been rejected. Over 21 applications, 16 has been rejected and only four have been accepted. And even those that have been accepted have been accepted with a low score, the minimal score.

So it seems that the criteria are very, very restrictive.

Even if this four has been approved and recognized as community-based, then the genetic applicants, competitors, they're utilizing all kind

of recourses, all kinds of procedural possibilities to delay, like they're doing for .AFRICA. For the moment, even of the four that's been recognized as community-based application has been delegated to operate a TLD. At the end of one year process of only for the community, the application we're still there. It's evident when we are working for putting a new basis for the next gTLDs round, this is an aspect that needs to be carefully evaluated.

 We're ready with the other few applicants that have survived through this very selective process to contribute to think how to change it.

ARGENTINA: Thank you very much. Giacomo. Why do you think it's important that you brought this up?

Thank you for your email yesterday. Many people came to us after the first round of new gTLDs telling why didn't Argentina apply for Patagonia community application?

I have no really a clear answer, but the first answer that came to my mind is, we have another priority at the national level. We should protect the name through a community application, is that the way that countries should protect those names?

Then what happens with community applications that we're seeing delays and several examples?

So I would, I would go back to the working group from now on and see if we perhaps can have part of our document reviewing this as a

suggested solution could be for countries requesting names as community applications.

Giacomo, would you engage with us in some work if the group agrees in doing that?

GIACOMO: Yeah. As I said, the only three of us that survived through all the process are ready to contribute and participate of course. But there was a larger group of community-based applications, but most of them, like .MUSIC, .ART, .GAY

Has been stopped. But they're still willing because the problem is that we're talking about the public interest.

When we talk of communities, real communities existing in the real world, this is a crucial point for ICANN being a body taking care of the public interests. If it's not able to do so, I think that it's failing its mission.

ARGENTINA: Thank you, Giacomo. I hope that you can join us in working if the group agrees to.

Eric, the floor is yours, and I have Susan and I will open the floor to Kabul, many, many.

Hold on a second. I will open the queue. Eric, go first.

ERIC: Thank you, Olga. I took up one thing. Of course the European Commission is not responsible for the (indiscernible) names in the European Union. That's a national competence. First of all, I do want to say that. We do protect, as you know, intellectual property rights whether it's trademarks or as you know we have our geographic communications. We're very (indiscernible).

Having said that, there is one thing that I caught in the conversation and I'm listening very attentively to it. Is the word is first come first served. I think that is really a way of trying to start resolving this problem because it cannot be that a textile company from the United States do apply for Patagonia and then everything goes on as if you've lost the first come first served. So I feel I think this is a key -- I don't have a solution to it. I think that the word here is it's probably a good thing to reflect upon.

We need a good communication. We need good discussions and it's important that the different constituencies of ICANN can actually cooperate very strongly on this issue.

That's just my reflection on it. So I think it's an important issue to reflect.

ARGENTINA: Thank you very much, Eric. You wanted to react to that very briefly, please.

UNKNOWN SPEAKER: Yes, I'm sorry. I believe I was the one who said first come first served. I said it in the context of meaning within the entire applicant guide book, I said it as a matter of process, not as a matter of priority as to who deserves for whom the gTLD should be the most appropriate. Just to clarify that, that was my meaning.

GIACOMO: Don't misunderstand me. You actually draw up an issue that I think we should reflect upon. Not anything more. I think you're completely right about the process that is it is today. I have no comments upon it. But maybe that is just one of the key issues here. Thank you.

ARGENTINA: Thank you. This is the purpose of this space, dialogue. Yes, I have next United States.

UNITED STATES: Thank you, Olga. I would like to thank all of our panelists today for joining us and taking the time to come in and help better inform our exchanges.

I think we're at a very important point, we the GAC, and have some decisions to take. So there's a process point and a substantive point.

So in a process point, we have always thought of this particular subgroup, working group exercise as an interesting experiment in developing a proposed -- a proposal that has not actually been endorsed by the GAC. It's a working draft.

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And the experiment that I think was very useful was to actually get it to a point it was posted for public comment. And we have never done that before, and it's, I think, a really, really, helpful way to work. When we have not arrived at consensus, it's useful to get the views of the community before we do.

So I want to thank everybody who has submitted comments, because they were extremely helpful, very constructive. And, frankly, we endorse the 95.9% that signaled concerns with this proposal.

So from a process point, also, I'm very much taken with the comments from Annebeth, the ccNSO representatives and our colleagues from the GNSO. There is a Cross-Community Working Group, and it strikes us that this is an appropriate point in time from a process point of view for the GAC to decide that we will shift the context of our discussion, which has been sort of ambiguous, and we put it into the context of an existing Cross-Community Working Group.

So the GAC -- I would notice, just take note, there may be individual GAC members who are participating -- I believe, Olga, you are -- but that's not GAC participation as yet.

So what I think we have done to date, we're providing ourselves with a useful foundation to go further, but I would have to say, if I could turn to substance now, the United States cannot concur with this proposal in any way, shape or form. And so we do believe it's been a useful exercise, a very good experiment to ensure that we take the views of the community into account, but going forward, I think there are many, many parts of this proposal that simply could not go forward, but that we take the exchanges and the ideas and take them into the broader

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Cross-Community Working Group so as to help the GAC, perhaps, refine its thinking.

For example, at some point we may well need to define what we mean by, quote, "the public interest." We use those terms an enormous amount, and yet we have not defined them.

I think we also need to be mindful and take advantage of the expertise in the GNSO and the ccNSO, and perhaps elsewhere, legal expertise. Whatever it is we feel strongly, the United States, we feel strongly that whatever it is the GAC is going to propose here should, in fact, be grounded in national and international law. And we should be able to point to that. There should be an appropriate framework.

Quite candidly, we do not see that in this proposal.

So I think we're at a point where it's an interesting inflection point, very much welcome the overtures from the ccNSO and the GNSO for us to now participate in that work activity and to, I think, quite candidly, discontinue this project in isolation.

Thank you.

ARGENTINA: Thank you very much, Suzanne. Just to remind you it was agreed in the GAC communique in Durban that we should do this exercise. And this is why we have been doing that.

And also, a comment that several colleagues from the Cross-Community Working Group had made to me is that they would expect broader participation from the GAC members. So maybe you can join us there.

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I have a long list. I have Suzanne -- Peru, please.

PERU: I will speak in Spanish.

The intention of my comment is to clarify and, as far as possible, suggest some constructive solutions.

I understand that there is a lot of subjectivity that becomes evident in this discussion, but we should this regard, the subjectivity, and put it into something that is more concrete.

We have heard from the representative, the Brand Registry Group representative, that the comments she made are supported by thousands of people that underlines some entities. I'm sure that is correct, but I would like to note that when we talk about the protection of geographical names, we're speaking about millions of people that are represented in communities.

So in that respect, we should not make that kind of parallelism, because there is no such parallel.

It has always been said that within the framework of international law, there's nothing that will actually grant a state the right to its name, its geographical name, to manage its geographical name. And I think that statement is not accurate. I think there are lots of organizations covered by the United Nations that carry on constant discussions where slow progress is being made, although slow, it is progress that's being made, and it is related to geographical names, geographical indicators, names of origin.

So some countries perhaps do not consider that the nominations of origin. But this is subject to another discussion. And there are discussions that are going on in that respect.

In the United Nations, they have the statistics unit where they prepare the (indiscernible) for statistic use or uniform country codes. This division that depends from the geography division the United Nations has prepared an M49 report. That statistics division allocates a numeric code from one to three characters to each country, and then the national -- the international standardization organization allocates a three-character code.

So I don't want to go deeper about the process, but can you still say that countries do not have any right to manage their names when there is a whole international structures -- and I'm speaking about the United Nations -- that has taken the time to prepare a list of countries and to allocate a number to each of those countries?

And finally, I would like to point out that apart from the criteria of community that should be taken into account, there's also another criterion. The list related to a wrongful perception. The use of geographical name that mirrors an official name may erroneously link the supply of a service as linked to a certain community.

So we have problems with unfair competition in this field as well.

This is quite a wide topic, and I think it is very healthy that all of us should give our point of view. But we should not think that the position of one country that is saying it does not agree to this issue, the topic will stop. This issue will continue ongoing until everything is cleared out.

To begin with, I think that it would be very useful for the countries -- at least the countries represented here at the GAC should let the secretariat know individually about the law in each of our country, how each of our countries protect its name; how we have been protecting our names.

So I hope that we may reach a clear position. Peru, Brazil, and the countries in the area of Amazonia could sort out the application for .AMAZON, does not bind us to assume, to manage a .AMAZON domain, because that belongs to the sovereign decision of each country. And the same happens and the same applies to .PATAGONIA. So if you don't use .PATAGONIA, other has to use it. You lose your right.

So tomorrow somebody may say, well, not use .CUSCO. It may be sold to a group of people who will use it for an ecological purpose or selling alternative medicine or whatever. No. Cusco is part of Peru. It's part of our history. It represents a community. And it doesn't matter the thousands you are mentioning with the millions (indiscernible) behind each name.

Thank you.

ARGENTINA: Thank you, Milagros. Argentina fully endorses your comments.

UNKNOWN SPEAKER: ...It has been very useful for us. I would like to thank you all for that because I believe this hasn't been an easy job. I would like to thank the panelists for sharing their views today.

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I would like to share the point of view of a democratically elected government that defends public interest; that is, defending the observance of international treaties, especially trademarks treaties. I will talk about .SPA and I will tell my colleagues what happens when the rules are not clear.

In the case of .SPA, we see that its precedent that has to lead to further confidence in the application of current rules and in the application of these rules by ICANN. The GAC on many occasions acknowledged the geographical nature of .SPA and associated that with several issues in their Beijing communique together with .PATAGONIA, .AMAZONIA, and please, my apologies if I don't pronounce the Chinese name very well. My government raised its concerns and asked ICANN to acknowledge the geographic nature of the name .SPA. And the GAC considered that this was just an ordinary name. But this is not the case in Belgium or in France.

However, the GAC constructively engaged in this work, and Belgium did not oppose and France did not oppose this decision. We reached an agreement with two applicants, but once again, the GAC did not take this agreement into account. And maybe we will have to go to an auction, proceed to an auction. So consequently, I urge my GAC colleagues to be cautious and to be more demanding in terms of the definition of geo names because the risk of having an ungrounded unilateral interpretation is quite present.

When we believe that we are dealing with a geographic name, we believe that ICANN should agree with this -- with this line of thought. And I believe that an agreement with authorities should be demanded.

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It is not up to the applicant to decide on the nature of the name applied for. It is not up to the applicant to decide whether this is a geographic name. Every state should be able to appeal to ICANN in order to determine whether this is a geographic name.

And finally, why wouldn't be able to protect or give the same level of protection to the name of our countries as to the name of a city within our countries. Of course I am willing to reach an agreement with the ccNSO members, but the GAC decided to set up these subworking groups, and we are looking forward to the result and we are looking for voice our views and reflect them in the communique.

So we should wait until the conclusion of this ongoing work. We shouldn't wait until we have the ccNSO's conclusion, because by that time, it will be too late for governments to express their views.

CHAIR SCHNEIDER: ....the participant, which is nice for a change. I want to quickly react on the point made by the U.S. and then give an example.

Actually, I think it is true that we are at the point where we should clarify how we work with this issue in the GAC, and also for us in the GAC but also for the others dealing with us that they know what is the view of the GAC, what is the view of individual members or groups of members. And this is something that I take that will look at with the chair and vice chair with the leadership team that we come up with a clear way of dealing with this so that there is no confusion about what is consensual, what is not consensual and so on. I think this is an

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important learning also from this experiment which was very useful for all of us and we'll take that on. This is one point I would like to make.

And then I would just like to quickly provide you with some experience of a concrete example that may be actually helpful to find solutions for these challenges.

 We happen to live in a country where the adjective to the name; i.e., Swiss, has some meaning to a number of people. We have an airline that has now Swiss -- it's not their full name. It's a part of their name, but they play with the Swiss in their logo. So they have a trademark not on the word but on the typo with the Red Cross and blah, blah, blah, in the airline industry. They have some rights somehow connected to that word.

 We have a number of other companies. You may have some clothes or knives, whatever, watches that have the same words on it. We have a number of NGOs, we have a number of other stakeholders that somehow stake a claim on that word.

 So what we did in our case, with the application .SWISS where we had an application from the airline and we had an application based on a consultation among the Swiss industries, civil society and the Swiss administration, that actually there should be no exclusive right, because there is no exclusive right to use these five letters as a TLD. There may be an exclusive right to use these five letters in the airline industry or the watch industry, but now there is a TLD that we should find a way on how to share this name with all those who claim a stake.

There may be just emotional stakes or historical stakes or cultural stakes or trademarks rights related stakes or geographical indicators. So they may offer very different natures. And we tried to develop a consultation that we all sit together, inform each other about these stakes, and then try to find a way to share the name. And if it's not possible to share, then maybe try to find a mutual way to compensate. In our case, that was not necessary because everybody agreed to share. But in other cases there may be mutual exclusions.

So if those who have a stake which is very high, if you take, like, the five cities of Berlin or how many that exist in the world, it's not only the rights of the city, the German city of Berlin to use the word, maybe other cities have the same right, too. So either they share or maybe the smaller ones are willing to say, okay, if you compensate our ceding of that claim in a way that the benefits are shared, maybe not the domain but the benefits, the opportunities are shared, that may be a way forward for our next round to try to find a mechanism where you can stake your claim of whatever kind that is, whether it's a historical, cultural, trademark, or whatever, and then get these people to get in, find a mechanism to develop a consensus way of dealing with this so that everybody gets a share of a domain name somehow.

Thank you very much.

ARGENTINA: Thank you very much, Thomas.

I have Norway, Netherlands, Kuwait, and three other people in the back, and I will close the list because we don't have much time.

Norway, please.

Sorry, Chairman. You're first. Sorry. It's a long list. Apologies. Germany, Norway, Netherlands, and U.K. And Qusai, yes, and Robin and the other two people there and I will close here. I think it's like ten people.

Please be brief. We have to finish the session.

Thank you very much for the good comments and the enthusiasm.

GERMANY: Thank you, Madam Chair, and thank you for all the participants in this discussion and the presentation we received.

Allow me a short comment in respect to supposition that was mentioned that geographic names do not have any legal protection. I think this is not true for every jurisdiction. We have jurisdictions where there is some kind of legal protection, and I just want to refer to a statement our colleague from Austria made yesterday when he said the use of the term Austria has constitutional legal protection in Austria and may not be used by third parties without permission of the government of Austria. I think this is an example where we have this kind of protection.

I just want to add, we also have, according to our Civil Code, legal protection for geographic names, and we have had some decisions from our courts in respect of protecting these names in the past.

What I also want to welcome is a note from our chairman in respect of the need of having some collaborative approach in finding some kind of

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common sense move forward where we try to include the different party in finding a modus operandi that serves all participant in such kind of decision. I think if we insist only on our -- on our rights, it may be -- sometimes it would be difficult to find a way forward that is practical and useful for everyone.

Thank you.

ARGENTINA: Norway.

NORWAY: Yes. Thank you very much, Olga, for your work and effort to bring this topic further and to facilitate the further discussion on this important issue for the protection of geographic names.

 I just wanted to say that this working draft document and the comments received has highlighted several important issues and aspects which are important to take into consideration in the future work.

 I also wanted to say that our first priority is the protection of the country and territory names. And as I have understood and also based on the comments from Annebeth, this Cross-Community Working Group have a specific task to address protection of country and territory names with regard to the current exemption in the first round.

 So I think that is important for the GAC to at least follow or participate in to the extent possible in the discussions and dialogues there for the

community to sort out possible protection for the next round, if it's maintained as it currently is or not.

So the second one is, of course, the protection of the geographic names in general, which I think also you said, as you said, the focus is on names that are not on any lists, et cetera. And I think that is for us to then to address, as also our chair commented on, then how to take that discussion further within the GAC. I think that's important to address. And we, of course, would probably have other internal discussions, but also I think as our chair said, they also would, in the leadership of the GAC, to discuss how that will be handled further on.

But thank you again for the work and effort to highlight this important issue.

Thank you.

ARGENTINA: Thank you, Norway.

Netherlands.

NETHERLANDS: Yes. Thank you, Olga, and thank you to you and your -- don't know if it's co-chairs, but I think this is a kind of new innovative way in which, let's say, we have very early participation of all other stakeholders, which I think is a very good thing. So continue the work, please.

I have some comments. Some comments were already made. One comment which I would like to make explicitly is that I think I heard the

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argument, I don't know from who, about, well, there were more reactions from the ICANN community against and more constituencies were against something. I think I heard this. I think we have to be very -- at least I am very aware that governments, we act in the public interest. I think Peru also said this. We have citizens, millions behind us. We are accountable to our parliament for what we do, to our citizens. So saying that, let's say, some constituencies, there are more constituencies against than for protection is something which I don't buy, to be honest.

I think also ALAC has a responsibility as being -- representing the users. And finally, also, ICANN is acting in the public interest, meaning that of course business interests are important, should be taken into account. There should be no barriers for business to enter the markets. In Netherlands we have a very globalized economy. We know and we want to attract businesses but public interest is something which comes in the first place. So it's a mix.

For me it's too early to reject any proposal at this stage. I wouldn't also approve directly, but I think we should continue in this way and see what is possible as an intermediate way.

Thank you.

ARGENTINA: Thank you very much. I have Qusai. Kuwait.

KUWAIT: Thank you, Olga.

First let us voice our support for the statement made by Peru and Belgium in that respect, and we are happy so far with the progress that is made by the support group, and we look forward to the output. And possibly then its output can be shared with the Cross-Community Working Group on geographical names.

It is also -- It was a positive approach that the document has been shared for public comments, and we hope that some of these comments may be reflected on the document, and we look forward to see a good outcome of that.

Thank you.

ARGENTINA: Thank you very much, Qusai.

United Kingdom.

UNITED KINGDOM: Yes, thank you, Olga. And I just want to applaud you as well for all the work you've done on this important topic. It's raised some very critical issues of public interest concern and also issues of concern to the business community and the advice that has come in through the responses to the public comment exercise has been very informative. And I think we need, as the committee, to take stock of the responses that have come in, which do throw up a number of challenges. And I don't think we can conclude this session without really having some sense of the difficulties here and some of the legal points that have been raised in particular, which ought -- we ought to take into account.

And I think in terms of how we go forward from here, I'm not sure. I get the sense that some of the aspirations of the proposal are not realistic ones. That has been the benefit of the consultations and the invitations for comments. And they have tended to reaffirmed my own earlier reservations about the extent to which we can construct a framework of protection as comprehensive as envisaged in the paper.

And I just pick on, really, two key areas. I think one of the presenters highlighted the importance of taking into account the context of use of geographical names. And it's so wide, you know. Obviously states use them; businesses use them; individuals, surnames can have country names.

We have a famous celebrity magician in the U.K., Jools Holland, and there are many, many more examples of that. But I'm also mindful of the business issue, which I think The Netherlands has just underlined as well, the extent to which geographical names are used in the business sector going back generations, in many cases, in terms of local businesses that have sprung up with close association to geographical features, towns, and so on.

So as I say, to come back to my main point, I'm really not sure how far we can go with this. There is the Cross-Community Working Group. We should certainly engage with that. So I do share that aspiration, which others have supported as well. Let's work with that Cross-Community Working Group and feed back into our GAC considerations as we anticipate future rounds. I think that's probably the best course we ought to take. But it's -- as I say, it's been a really useful exercise that you've launched and conducted so effectively, and this panel here has

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been a very useful one in articulating a diversity of views that inform us so effectively. So I really appreciated all, everybody who has contributed.

Thank you.

ARGENTINA: Thank you very much, U.K. And I have three speakers in the back. I cannot see you very well. It's Robin and two more.

ROBIN GROSS: Thank you very much. My name is Robin Gross with IP Justice, for the record.

My organization filed comments on this proposal that was signed on to by 24 other noncommercial organizations and individuals, all expressing concern about this proposal. And I must say it's a bit unfortunate that there were no noncommercial users allowed to participate in the panel. However, I will try to take this opportunity to make a few comments.

So with respect to what our concerns are on this proposal, we really caution against the adoption of it because it would show freedom of expression and other lawful rights to use words in domain names stifle innovation and undermine the multistakeholder model for Internet governance.

The proposal is based on flawed presumptions of law and the public interest, and is entirely unworkable from a practical standpoint.

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The proposal is based on false understandings and misapplications of law. Despite the document labeling itself as pertaining to geographic names, there is nothing in international law to support the proposal's creation of new worldwide rights -- exclusive worldwide rights to control the use of words in the Domain Name System.

Besides the fundamental misapplications of law, the proposal also relies upon questionable presumptions of what is in the public interest. One of the biggest concerns with the proposal's implementation is its chilling impact on freedom of expression in the Internet Domain Name System. While the document never uses the word, what it proposes in operation is censorship. The proposal entirely ignores freedom of expression rights in domain names and makes no mention or consideration for those legitimate interests of Internet users in its analysis.

Another significant concern about the proposal to restrict the names is that it is completely unworkable from a practical standpoint. The proved restriction on entire categories of words on domain names is excessively broad, vague, uncertain, and arbitrary. Given the broad categories of words restricted, the different meanings of words, the many languages in the world, it would be impossible to predict which words must receive advance permission before ICANN will consider them in a gTLD application.

Another problematic aspect of the proposal is the number and complexity of permissions required before the gTLDs are allowed to proceed. This will have a stifling effect on innovation. ICANN is an inappropriate forum to undertake the creation of new intellectual

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property intellectual property-like global rights to geographic names. As a technical coordinator, ICANN is not an international legal regime and it has neither the expertise nor the authority to create new exclusive rights of categories of words.

 In conclusion, the proposal is unbalanced, excessively broad in the categories of words it restricts, excessively vague and burdensome in the permissions it requires to proceed, freedom of expression rights to domain names would be severely abridged and innovation stifle. This proposal sets a dangerous precedent for building government censorship into the DNS and should be rejected.

 Thank you.

ARGENTINA: Thank you, Robin. Given the fact that this is a dialogue, your comments finish that it's a proposal that should be rejected. We would welcome proposals on how to move forward and improve it.

Thank you very much.

We have two more speakers and we should close the session.

UNKNOWN SPEAKER: Thank you. My name is Susan

....so consequently represents

Millions of underlying individuals. NTIA has submitted a comment on this proposal, and obviously there's no time now for me to repeat what we've said, but I would like to urge all of the GAC members to please

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read our comment in full and, indeed, read all of the comments that have been submitted in full because the summary is no substitute for actually reading what people have said. And particularly a summary that reduces our own NTIA comment to a single line is not a good substitute.

But very much in brief, as we've said and as others have pointed out, the proposal has no basis under international law. And to allow governments or the GAC to object to terms which have potential geographic meaning or which offend local sensitivities undermines longstanding protections that have been established under international law.

There are competing rights to names, and they must be fairly balanced. No single competing right should take priority over or have a right of veto over others.

We understand that geographic names are a sensitive issue for some governments; however, those same governments have obligated themselves to obey the rule of law, including the protection of trademark rights. And it's really only by adhering to those established legal principles that ICANN can ensure that its decisions are aligned with the public interest.

It seems to us clear that the GAC, rather, as a whole has not to date not sought it's own legal advice on this proposal, and we consider that it's actually essential now that you should do so before there can be any meaningful discussion further on the proposal.

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To the extent that any of the individual governments have already sought expert advice from their individual government departments, such as, for example, my own in the U.K., we'd very much welcome seeing that advice.

Thank you very much for your time.

ARGENTINA: Thank you. I think we are totally out of time.

Very briefly. Yes, please. Last.

ED MORRIS: Thank you, Olga. Ed Morris NCSG, GNSO Council.

This is a bad idea. Not only would this proposal create rights online that do not exist off-line, not only is this proposal an affront to free expression, it is totally impractical.

I grew up in Weymouth, Massachusetts in the United States. I've lived in Weymouth, Dorset in the United Kingdom. If I want permission to use the term Weymouth, who do I contact? The town council in of Weymouth Nova Scotia in Canada?

Bad idea.

ARGENTINA: Okay. I don't think it's a bad idea having a dialogue.

Thank you everyone. Thank you very much. We will take all the comments, we will produce a new document. We will talk about chair

and vice chair, how to move forward. And thank you very much for being with us, and sorry for being so late.

Thank you.

CHAIR SCHNEIDER: Sorry to ask for your attention. We take note of the vibrant discussions going on, but we need to somehow plan the further schedule for the GAC.

So please, let me ask the GAC members, should we break for lunch now and meet half an hour earlier at 1:30 in the afternoon? Or do we somehow try to, like, not turn this into a break? I think it would be difficult. So is that okay? I see people nodding.

So please, let's meet at 1:30. If you have other engagements during lunchtime, adapt them accordingly, if you can. That also goes for the leadership team.

So we will meet at 1:30. Okay? This is the lunch break, then.

Thank you very much.

[Lunch break]