
LONDON – GAC Preparatory Session for Meeting with the ICANN Board
Tuesday, June 24, 2014 – 15:00 to 16:00
ICANN – London, England

CHAIR DRYDEN:

Okay. Let's begin our next session.

All right.

Can I ask GAC support staff to help clear the room, please.

Okay. All right. I think we can get started.

So we will be meeting with the board at quarter to 5:00, just after our coffee break. So we have a bit of time now to do some preparation and identify which topics we would like to raise with the board. I will ask again for GAC support staff to help clear the room.

All right.

So, in our discussions so far, we've identified a few things to raise with the board. And here we need to distinguish between things that the GAC has a general view on and/or is moving toward a general view on to raise with the board. And one example there would be on the matter of WHOIS and really wanting to flag to the board that this is an issue that the GAC really wants to prioritize and pay some attention to, put some effort into before the Los Angeles meeting and at the Los Angeles meeting.

And, as I understand it, the board will not be considering the Expert Working Group report and how to proceed until Los Angeles. So that

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removes some of the time pressure that we had thought could be an issue for us earlier. But, nevertheless, I think this is a useful item for us to flag as a GAC for the board.

There are some other issues relating to safeguards that we might want to flag.

And I think we can have a bit of discussion about safeguards before we meet with the board to get a better sense of where we stand. We have had limited time to go through the issues that were first identified in our Saturday session.

So a bit of time is warranted there.

I expect as well that on the issue of IGO and Red Cross/Red Crescent protections, that it might be of interest to us and to the IGOs and Red Cross/Red Crescent to flag this for the board. So let's keep that notionally on the list as well. And then, on the matter of specific strings, there are individual GAC members that may also want to take this opportunity in our exchange with the board to raise their concerns about specific strings.

That does not mean there is a GAC view necessarily, but I think we can acknowledge that this exchange with the board does provide an opportunity for members to raise issues of particular concern to them.

In terms of specific strings, I'm aware that there is a clarification being sought in relation to .SPA. And it seems clear from our first discussion that Belgium will have a clarification to make with the board on that. Okay.

On .AFRICA perhaps as well.

And on the matter of WINE and VIN, it may be similarly that GAC members want to raise that as well. I do want to be clear, however, that raising something with the board does not mean that we have a GAC view or that there will be something in the communique on any of these topics. We are identifying as we discuss them wherever there is agreement or agreement on next steps and whether, in fact, there is potentially GAC advice to be a consequence of our discussions. And we have an opportunity on Wednesday at the end of the morning to do a kind of recap, to make sure that we are agreeing on what the headings are for inclusion in the communique. And, as we have found this works well for us, we are receiving draft communiqués at the end of each day to help us move along in our work.

On the matter of WINE and VIN, I understand there are some corridor discussions happening. I think this is the right place for them. And I encourage that to continue so that, if there is to be text in the communique, whatever comes forward to us when we're finalizing the communique is already agreed text. If it is not agreed text, then I do not see how we can bring text back into the room. So, please, address that informally among interested parties to identify what we can do. And I encourage all parties to be forward-looking in terms of what the GAC may say or do in relation to those strings for WINE and VIN. Please be forward-looking. I do not think we are going to have much benefit from relitigating the past or creating further adversarial exchanges in this committee.

So I really would like us to work hard in the corridors at coming to some kind of accommodation, if possible. And on that basis bring text back. Again, if possible.

So this is what I see so far as our list. And I think I have pretty good clarity on who the speakers might be for each of those topics I've outlined. This is an opportunity for anything that I have not listed for GAC members to raise now. Okay. I see United States and Sweden.

UNITED STATES: Thank you, Madam Chair. My apologies to you and to the room if you have covered this and I was not in the room at the time.

Is there agreement among colleagues that we might want to flag some concerns or additional questions with regard to the NGPC's response of June 6 to the GAC's Singapore communique? Would that be an acceptable issue to raise?

CHAIR DRYDEN: Was that in relation to the safeguards, the questions we had about the safeguards? Just if you can remind me.

UNITED STATES: Yes.

CHAIR DRYDEN: Yes. Yes. So, when we started this session, I did propose that we look at safeguards while noting that we probably need a bit more discussion here to get to the point of understanding what our next steps are. But

it does seem quite possible that there will be a need to seek further clarification or somehow communicate to the board about the GAC's response to that June 6 scorecard and, in particular, the questions we asked about implementation of safeguards.

So, if we can get through the list of topics to cover, then we can use the remaining time in this preparatory session to talk about safeguards. Let's use this time. Yeah. Okay.

All right. So I see Sweden and Iran.

SWEDEN:

Thank you, Heather. I would like to raise with Fadi and with the board the Ilves report and for this initiative to create the NETmundial alliance. The Ilves report is interesting but also challenging to digest. And it doesn't really relate very much to other existing foras. And there is a risk that maybe it is adding to complexity rather than adding to clarity where clarity is sought.

And the initiative for the NETmundial alliance, we haven't heard very much about it. It would be interesting to hear more on how he foresees this to play out, how to engage the community, and how it connects to existing bodies like the IGF and their possible renewal of the IGF mandate and so forth. Thanks.

CHAIR DRYDEN:

Thank you, Sweden. I think that's a good suggestion for us to understand better that activity. Okay. So I have Iran, Germany, European Commission, and -- okay.

IRAN:

Thank you, Chairman. We have raised it two times, but we wish to reiterate our interest in the coordination group and in the working group. The first one on the transition and the second one on the accountability. And I have a clear idea how it works, how it will be implemented, what is the time frame. And then no doubt we will discuss or at least inform the board of initial discussions on the increase of the number of representatives from GAC into these committees or the one committee on working group. This is the two issues.

And, thirdly, the issue that I raised is .TEL. A letter was sent to Fadi Chehade in 2013. Another letter was sent in 2014 requesting clarification of the possible conflict between the country code and international telephone numbering E.164 of all countries and users of these sort of digits before this .TEL. We would like to ask that question whether any action has been taken or not, because that is important for at least those countries who have participated in the discussions in the other forum relating to the possible misappropriation or misuse of that in particular with respect to the numbers which have not yet been assigned by the E.164 and may be assigned. And, if they are already taken, that it will make it difficult for the future assignment of these numbers. Thank you.

CHAIR DRYDEN:

Thank you, Iran.

So I can certainly provide a status update to the board about where we are in our discussions in relation to the NTIA stewardship process and

how we will approach the coordination group. And I would ask you to raise the issue in relation to E.164 and invite the board to respond to that.

Okay. So next I have Germany.

GERMANY:

Yes. Thank you, Madam Chair.

First of all, I would like to ask a question for clarification. I also think it is very important to reiterate and ask questions in respect of this implementation of safeguard advice. During the discussion on Saturday, I made a remark in respect to our corporate identifier strings that are belonging to these highly regulated sectors. And there's a question how this will be reflected in the contract with applicants.

And I know that colleagues were also, during the discussions on the corridors, having similar questions in respect to other highly regulated sectors. And so I think this would be interesting.

I would note who is going to care about these issues and bring forward this issue in a discussion with the board?

And the second one I would like to second our Swedish colleague in respect of this NETmundial initiative. We do not have a final position from our country. We are still under consideration because it's rather new, this approach. Nevertheless, I think it's important to raise some questions. And our Swedish colleague brought forward some substantial questions. And we also bear in mind. And it's valuable

bringing this forward and probably also hear what other board members are thinking of this undertaking. Thank you.

CHAIR DRYDEN: Thank you, Germany. Okay. Next I have Italy, please.

ITALY: So I would like to notify to the board that there are no longer justifications to delay the activation of the review panel on the -- regarding the new gTLDs promotion and competition, consumer trust, and consumer choice.

Because this is something that will allow also to verify in practice how the safeguards we are talking about so much are implemented in reality. And this is a very important suggestion that to activate this review panel.

CHAIR DRYDEN: Thank you, Italy. Okay.

Next I have the European Commission, please.

EUROPEAN COMMISSION: Thank you. I'll stay very short. I think just the European Commission would like to raise the issue around ICANN accountability and hear what the progress will be. We'll, of course, welcome the process. But we'd also like to know a little bit about the process and what are the different elements that we will see in this discussion. So that's, basically, what we would raise. Thank you.

CHAIR DRYDEN: Okay. Thank you. And next Mr. Chen Chung Shu, please.

CHEN CHUNG SHU: Thank you, Chair. On behalf of Taiwan and as a member of GAC, I would like to remind myself of the fact that they require loud voices in high-level governmental meeting yesterday that accentuate the need to let GAC have a greater role in ICANN board in order to deepen the interactivity, the environment and cooperation of government around the world including Taiwan. Thank you.

CHAIR DRYDEN: Thank you.

Next I have Greece, please.

GREECE: Thank you. Thank you, Heather. And it seems that I have not a clear idea of what is happening with the singular and plural case. What is -- can somebody inform me about this? And if it's -- if both cases of the word are allowed, let's say, by the committee, maybe we can raise it also to the meeting with the board. So what is the case with a singular plural?

CHAIR DRYDEN: Thank you, Greece. This is one of the items where we had a response from the NGPC in the scorecard. So, if you're seeking clarification on

the basis of the response, then perhaps that's something that we can raise with the board. Okay. Next I have Denmark, please.

DENMARK: Thank you. I would like just to follow up on Italy. Maybe we could ask the board for -- to tell us a little bit about the process for the AoC review of the gTLD program. Thank you.

CHAIR DRYDEN: I have U.K., then Australia.

UNITED KINGDOM: Thank you, Chair. Two points I'd like to raise with the Board. Firstly on child protection. If they are intending to reply to the letter from eNACSO that I referred to on the opening day of the GAC meeting about proposals for guidelines for child protection. There's a letter that was sent to the CEO, which no reply was received.

Secondly, protection of designation of Red Cross and Red Crescent names, which was the subject of previous GAC advice. They seem to be deferring to a GNSO position which equates them with trademarks. I believe we have a consensus here that that is not meeting the GAC's position.

Thanks.

CHAIR DRYDEN: Thank you, U.K.

On the issue of child protection, the scribes didn't quite pick up the name of the organization that wrote to ICANN. So if you can repeat.

UNITED KINGDOM: Yes, sorry. The acronym is e-N-A-C-S-O, eNACSO, which is an alliance of European child protection organizations. Thank you.

CHAIR DRYDEN: Thank you.

Okay. Next I have Australia, then Portugal.

AUSTRALIA: Thank you, Chair. This is really just a very brief comment in response to Italy and Denmark in terms of the AoC reviews which look at the promoting competition, consumer trust and consumer choice review following the new gTLD launch.

The timing of that is that the Board will initiate forming that review one year after the first new gTLD has gone live. So I don't think we reached that point, but it could be well worth asking if they started to plan for it, whether they're thinking about how they will initiate that review and so on. But I just thought I'd add that little fact to the discussion.

CHAIR DRYDEN: Thank you. Okay.

So next I have Portugal, then the Netherlands.

PORTUGAL: Thank you. On the same page as Sweden and then Germany, if I don't receive the responses I need regarding this NETmundial alliance process of movement, I will intervene.

Thank you.

CHAIR DRYDEN: Thank you.

The Netherlands.

NETHERLANDS: Thank you, Heather. I have a questions about -- maybe I missed something, but there was an NGPC on the 21st of June, and the question is do you or do we, through other means, have any information? Maybe I missed something. But otherwise, if we don't have information, we should ask about the outcome, because on the agenda, there are things which concern very much the GAC. Category 2 safeguards, IGO protection, consideration of sensitive gTLDs, et cetera.

Thank you.

CHAIR DRYDEN: Thank you, Netherlands.

Okay. So we have quite a good list here of topics. So I'll recap them. They're not in any particular order but I'll organize them so that we can arrange our work in a useful way when we exchange with the Board.

So we have IGO RC, Red Cross/Red Crescent protections, that issue.

We can at least update the Board on where we are in the GAC and the very brief exchange we had with the GNSO as well. We can refer to that and seek clarification on some of the issues that have come out in the discussion with them.

And the topic of WHOIS, just clarifying with them next steps based on our earlier discussion about that. And implementation of safeguards. Here, it would bear some further discussion in the GAC, so I think we can have a discussion now before we break at coffee at 4:00 about safeguards. So we will come back to that.

Sensitive strings. There are a few sensitive strings remaining where individual GAC members may want to seek clarification or raise a point with the Board.

And then the -- we have the opportunity as well to provide an update to the Board on the status of the GAC's discussions regarding the NTIA stewardship role. Related to that, we have a question about ICANN accountability and that process and what the next steps will be for that.

We have questions regarding the NETmundial alliance and what is anticipated there and what are the implications of that process. To come back to new gTLDs, the Affirmation of Commitments review includes a review of the gTLD program, and so we have some questions here about what is the status of that and how that will move forward.

We have a question related to E164 and .TEL and the issue of using numbers within a particular top-level domain.

And then a question about some correspondence related to child protection coming from eNACSO to the Board.

Okay. So that's quite a good set of issues for us. A lot of seeking of clarification among those issues from what I can see.

And then if we come back now to talk a bit more about safeguards.

So in our discussion the other day, we heard from the United States and the European Commission, in particular, that had the opportunity to go through the NGPC responses to us following our questions about the implementation of safeguards, and there was quite a bit of range to the kinds of issues that were being identified.

How is it that we in the GAC want to take this forward? I think it's something we can certainly raise with the Board, but if we, as GAC, are thinking now about our next steps, is that dependent on what the Board tells us? Or shall we use this time, in fact, to what are the key issues there for us?

So I'm looking to our most vocal or leads on these issues.

United States, can you help us?

Go ahead, please.

UNITED STATES:

Thank you, Madam Chair. I'll take a crack at it.

I guess -- I appreciate your question because we do need to be clear in our minds how often do we revisit this issue. And I guess I'm maybe reading too much into your question, but I think that's what you are asking.

I will confess freely to colleagues, we have asked ourselves the same question. It just seems as though each response we get somehow isn't a very targeted response, or simply says we cannot do what you've asked, but there hasn't been an exchange.

So perhaps that could be a new dimension of this exchange that we actually seek that kind of an exchange. So we've been told repeatedly that verification and validation of credentials for registrants in highly regulated -- in strings representing highly regulated sectors, my apologies, just can't be done. And we seem to be ships passing in the night. And I guess our strong concern from a consumer protection and law enforcement perspective, both sides, is that if we can't be proactive in all of these new gTLDs to sort of already reduce or lessen the prospect of harm, then that imposes the burden on all of our consumer protection agencies at home to respond to complaints.

So maybe we ask them. I mean, is it worth having a discussion to talk through exactly what the obstacles are? Because they're suggesting that, you know, not every country regulates the same way. Quite correct. But for certain strings that are fairly obvious, there are very responsible entities all over the world, and regulatory bodies all over the world, and even associations of companies, say the banking community. They freely adhere to very high standards, and they can produce credentials that they are a bank when they claim to be a bank to register in .BANK. So I don't know whether asking them for an exchange might help overcome this.

I do think perhaps if we can get them to respond to further questions, that would be useful because there is a great deal of detail that is,

frankly, missing in their responses to us on the PICDRP, in their responses on the WHOIS -- the new system that they are creating for WHOIS accuracy reporting. So some of these issues may be very suitable for written exchanges back and forth, but I fully take your point. I don't know whether we can continue to flag these concerns. And maybe this is our last best effort.

The final concern, I think, I do have, frankly I'm disappointed we weren't very clear in Singapore, I thought we had been, on the issue of nondiscrimination as a very key element of a registration policy for a closed generic. I'm sorry, not a -- yeah. At any rate. They have side stepped that again, and they have repeated earlier advice. Frankly, some of what we have seen on the June 6th response is a repetition of earlier advice, so it does make you wonder did they honestly rethink it or did they simply do a cut and paste?

I don't mean to be so sort of harsh here, but it is very disappointing that there is a continued assertion that the requirement of transparency meets the spirit and the intent of the GAC's Beijing advice. And I think perhaps this is our last effort to say, actually, no, we disagree with you fairly strenuously.

Nondiscrimination means nondiscrimination, and that can occur -- discrimination can occur even if you're being completely transparent about it.

So I'm in your hands, and I don't think we should spend a lot of time. I take your point. Colleagues here have given you quite a long list, and that's a lot to cover in a very short time.

Maybe we simply put the question to them that, you know, what will it take? Do we do another exchange?

I'm in your hands.

Thank you.

CHAIR DRYDEN: Thank you, United States.

I have Germany next, please.

GERMANY: Yes, I think I can endorse all the comment of my previous speaker. I think that's exactly the situation we are in, and I want to recall that we have applications where more than one applicant is applying, and for them, part of the applicants are fulfilling the requirements, and they found some regulatory body, some self-regulatory institution for trying to include the idea of our Beijing advice. But there are also applicants that do not implement it.

And if you have a string and you have more than one application -- applicant, it is very strange if you decide in the end, probably for the application, who is able to pay the most money in an auction and not give it to the application that probably is most appropriate to include the advice we gave.

And so far, it is a very difficult situation we are in, and I would really like to reiterate it with the Board this, discussion, and probably also to

mention it in the communique to some extent; that we are, in this respect, rather disappointed.

CHAIR DRYDEN: Thank you, Germany.

Switzerland, please.

SWITZERLAND: Thank you very much, Madam Chair.

Switzerland is speaking. I'm not going to repeat what has been said before, what has been said by our colleagues, because we certainly support that. But I'm going to insist on a topic that has been mentioned before, and it's related to the highly regulated sectors. We are speaking about the banking industry, but we have insurance companies, pharmaceutical companies, several sectors. And we would like to have a clear answer in that respect, and not just a vague response that certainly does not satisfy us.

We should be able to know how these highly regulated sectors will be managed in the future, and how these topics will be managed, because we often see that among ICANN people, when we are speaking about public-policy issues, some decisions are made. But when questions are asked regarding these decisions on the consequences, the answer is, well, the consequences are not a problem. It's not part of our problem. And I've heard that from ICANN people. This is a consequence. It's not a problem. And certainly I cannot believe that the authority of any association, of any forum that makes decisions regarding public policy

may give that kind of answer, saying, no, we're not concerned with the consequences of the decision.

I think we should not accept that. And if necessary, I will say this directly to the Board.

CHAIR DRYDEN:

So next I have Australia, then Belgium.

AUSTRALIA:

Thank you, Chair. I'll keep this very brief as I think my Swiss colleague has said much of what I was going to say.

While we've seen a very positive response from the Board to our Beijing safeguards and they have basically accepted many of them and sought to implement them, we do have some serious potential outstanding issues. And I think one of the things we're grappling with is lack of clarity in the way that the Board has responded to our questions hasn't really cleared the matter up for us. So when we're asked how does the transparency requirement address our recommendation that there be nondiscrimination, we haven't got an answer that gives very much clarity about their thinking. And when we ask for pre-verification of credentials as opposed to after the fact and we said how do you think your proposal, your implementation path, addresses the risk and the potential for consumer harm, we don't have very clear answers.

So I think as a first step, certainly trying to draw the Board out so we understand why they think. Because they said they've accepted it. So clearly they think they have addressed our concerns. So I think if we can

get some clarity about what they intended, how they think it's addressed our concerns, then we'll be much better placed to decide if we do need another step. Which I think this is the key our U.S. colleague identified. We don't want to keep talking about this forever. We want to get to a point where we can say are we comfortable with what the Board has implemented -- ICANN has implemented or not? And at the moment it's really hard to determine that.

So I'm really supportive of some additional questioning and quite sharp questioning. We really need to get this closed off, I think.

CHAIR DRYDEN: Okay. Belgium, you are next, please.

BELGIUM: Thank you, Madam Chair.

I would like to support intervention of our colleague and say we have problems with respect to these safeguards. We do not know about dot aught (phonetic) and the open character of domain names. For instance, .LOTTO, the lottery, is a monopoly of a state. And certainly we should check there is some credential, there is some accreditation for everybody wanting to be there. It's to protect consumer, and this is included within the same category. And I'm speaking about .LOTTO.

CHAIR DRYDEN: A good set of questions and issues to raise with the Board, and hopefully we can draw the Board out a bit further regarding the issue of the implementation of safeguards, and that will allow us to determine

precisely what our next steps will be as a GAC in dealing with that and whether it's a matter of further engagement or quite how to elicit the detail to the responses that we are seeking.

Okay. So I think we are in good shape for our preparation with the Board.

Iran.

IRAN:

Thank you, Chairman.

With respect to the issue raised by our colleague from Germany in relation to the auction in regard with whenever we have two applications for a given string, and he said rightly that, yes, give it -- going to the auction and give it to the one who can afford to pay more may not be appropriate, but we have raised this question two times, and the answer was that auction is the last resort, number one. Number two, they apply the guidebook.

So if you want to go beyond that, we have to propose a concrete course of auction.

I raised the question, and the reply was given that they apply the guidebook. That's all.

Nothing else.

Thank you.

CHAIR DRYDEN:

Thank you, Iran.

Okay. So we're due to meet with the Board at a quarter to 5:00, which means we have some time now to have a long coffee break, or to take up some of the topics we have outstanding.

I'm in favor of the break, myself, and I can't think what we can use this time for usefully.

If we break early, this is an opportunity for you to talk among yourselves about some of the more controversial issues we're dealing with this week. We are going to be finalizing our communique tomorrow, so this is a very good opportunity for those exchanges.

So I'm encouraging some creativity and collegiality in looking at some of those matters, and hopefully coming back with some solutions for us to be able to promptly conclude our communique in a way that leaves us all feeling at least some satisfaction with our time spent here this week.

Okay. Iran, please.

IRAN:

Thank you, Chairman. You decided to have long break. No problem, because this time may be justified. You mentioned that the colleagues talk together during the break and perhaps better organize for the discussions, but what I would like to ask you, are you plan to finish the communique tomorrow evening? Not remaining for the Thursday?

Thursday will be agenda or any other thing, but communique, we should try our best to complete it by tomorrow evening, whatever time that you put for that.

Thank you.

CHAIR DRYDEN:

Thank you, Iran.

So our communique finalization session concludes at 6:00 p.m.

The schedule says this very clearly. That is our deadline.

Our hosts have a gala planned for us tomorrow, and we will be there.

And we have some important sessions on Thursday, Thursday morning early, and then we have the public forum sessions on IANA stewardship and enhanced accountability of ICANN which are two issues that were just confirmed to us as being important to the GAC, so we need to be there and not in this room discussing anything else.

Okay.

So Wednesday, 6:00 p.m. is our target. That is when we will conclude the communique. So if there is something controversial or sensitive, now is the time to work it out in the corridors with your colleagues. Be creative, be collegial.

Thank you. Okay. Quarter to 5:00, please, for our exchange with the Board.

[Coffee break]

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