LOS ANGELES – GAC Briefing to ICANN Community - Protection of Geographic Names in gTLDs
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PETER NETTLEFOLD: Good morning, everyone, and welcome. My name is Peter Nettlefold, one of the vice chairs of the GAC. Thanks to all GAC members and to the community members who have come along to this session today. This is the GAC's second open discussion on this issue.

For those of you who don't know, the GAC is attempting to be -- to proactively look at some issues which it identified out of the first new gTLD round to start together some thoughts and start some discussions about those in advance of any second round.

So we formed a small working group. At the moment we are focusing on three issues. Those are geographic names, the cluster of issues around community names -- that includes the application processes and the appeal processes -- and also issues to developing economies and applicant support.

This session will focus on geographic name issues. We had an earlier discussion with the community at the London meeting, and this follows on from that.

So without further ado, I will pass it to Olga Cavalli who has a brief presentation.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

We are very focused today on hearing comments and suggestions, ideas and input from the community. So I understand that many of you will have seen the paper which has been posted. This is a very early working draft out there for comment from a subgroup of the working group, so please treat it in that manner.

We are very open to ideas. It's there to promote discussion, and we would very much look forward to hearing from you on these complex issues.

So, Olga.

OLGA CAVALLI: Thank you very much. Thank you very much, Peter. And you just explained exactly the purpose of this session.

We have a huge audience. Good morning, everyone!

And first of all, I would like to congratulate my dear friend Tom Schneider for being elected as the new chair of the GAC.

And before I start, I would like to remind some of you, there was a time that we didn't have translation services. Meetings were held only in English.

So first I would like to thank our great translators over there. Join me in thanking them.

[Applause]

They're a great team, led by our friends Christina and Sabrina.

Having said so, I will do my presentation in Spanish.

Good morning, everybody, once again.

Thank you very much for being here with us. I know that this session is generating a significant interest among members of the ICANN community who are interested in geographic names, brands, trademarks, use of community names.

So as my colleague Peter has said, the document has been posted to be reviewed. It's a draft document. We would love to receive comments from you. We would like you to help us create a consensus space so as to decrease our uncertainties on this topic. So all comments will be welcome.

You may get into the GAC Web page. You will see in my presentation the link to the GAC Web page and the email so as to make all these contributions.

Well, today this is a brief presentation. I tried it to be concise so that we would have a Q&A session. We have room to exchange ideas, and I will speak about the background of the documents, why we created the documents, how it is divided, and some proposals for the way forward.
In the Durban GAC communique, if you check the files, you will see that in point number 7 there is a specific reference to geographic names and community applications for future rounds of gTLDs.

Please go to the previous slide. Thank you.

There is a specific recommendation included in the Durban communique saying that the GAC will collaborate with ICANN to refine or to improve, enhance for future rounds of gTLD the documents or the Applicant Guidebook, I don't know what the name of this document will be in the future round, with regard to the protection of terms with national, cultural, geographic, and religious significance in relation to or in accordance with the 2007 GAC principles. I don't know if you remember these principles, but they were agreed in the Lisbon meeting in 2007.

Well, this is to briefly be used as a reference. This is an online document, but I have made a summary of the most important principles for the new gTLDs, agreed by the GAC in 2007, and they clearly state that the new gTLDs should respect national sensitivities regarding terms with national, cultural, geographic and religious significance; is that they should not prejudice the application of the principles of national sovereignty.

Internet naming system is a public resource, and it must be administered in the public interest, and ICANN should avoid using any country, territory, or place names in other languages except if there is agreement with the relevant governments or communities to which they are related.

Here you have some of the links to some of the documents that are relevant to the GAC's previous documents and some of the reference that we have used. The GAC scorecards on new gTLDs, for instance. And we also consider some contributions made by some of the

colleagues of the GAC related to local regulation that protect city or geographic names and some ideas that we have taken from the spectrum allocation from the International Telecommunication Union. Our work started after the Durban meeting. It was ICANN 47 in July 2013.

At this time, we created this working group that was explained to you by Peter, and then a subworking group was created. And some of the colleagues that are a part of that team are here with me today in this room.

What are the objectives of this document, the objectives of this subworking group? I will make reference to a blog that I read a few weeks ago that said tips for new gTLDs.

One of the tips, (indiscernible) a GAC member, run away from them. Honestly, that shocked me. And I may give you the link to that blog. But the idea is not to run away from us, but to speak to us so that all of us together may have the opportunity of finding a way to reach an agreement on a process that may be good for economies but should be good for the community and for the countries involved.

So the purpose of this document, the purpose of this subworking group is to lower this uncertainty from the applicant side because we know the applicant is making an investment, a significant investment of money and time, for countries, for regions and for communities as well. So as to avoid the misuse of names that are really very important for countries, regions and countries, and to lower the conflicts that may

apply from these applications and to give information that we consider useful and relevant to the applicants and to the whole of the ICANN community.

The document -- and I'm listing some parts of the document, but I will briefly explain to you the contents of the document.

I forgot to say the document has been drafted with the leadership of Argentina but with the contribution of many members of the GAC and since Durban has been evolving and has had different version. You can see that in previous version, there are some issues that are not included now. The idea of making repositories or lists of names. We considered it was not practical, it will not be useful. So there are several versions of the documents, and the documents have been refined, enhanced, and improved after Durban, through Durban, Singapore, and London meetings.

In the document, we propose certain actions at national and regional levels. One of the actions we proposed, so we can see that they are really very important, is to find ways to improve the outreach of ICANN in certain communities, particularly in developing countries.
You know better than I do that Latin American only filed 24 applications for new gTLDs and 17 from Africa, if I'm not mistaken. My African colleagues may correct me. So very few when we can see the hundreds coming from the developed world.

I'm personally involved in the Ministry of Foreign Affairs in my country, involved in filing the presentation. I think that people from ICANN

came. I think that all of us that are aware of this should not be explained this again, but we have to open the subject and communicate it in a better fashion, particularly in communities that are not involved in ICANN, that are not involved with all these processes so that they are not getting surprised when they find their products, the things, their community names under a new gTLD that belongs to some other country.

We have been working at national level, with our representatives at ISO so as to try and find whether the names of the region, as Patagonia, for instance, for Argentina, it includes six provinces in the southern part of our country. This region declared as such. And our country may be included into list of the ISO. This is work we are doing at national level, and it has started in 2012. This is some of the ideas we propose in the document.

This text was suggested by our Chilean colleague and was agreed by the members of the working group and by the GAC as a whole when it was submitted. The proposal is to enhance the text of the new Applicant Guidebook considering the text of the Applicant Guidebook that already exists. We don't know what will happen in future rounds, but at least this is a reference, and we put some emphasis on the principles, the principles passed by GAC in 2007. You may review the text, but this is basically what we are talking about.

This is the text that also puts emphasis on something that's included in the Applicant Guidebook, but I don't know why somehow it's not as

significant as it should be. So we think we have to stress the significance of this.

It's in the interest of the applicant to consult with relevant governments and public authorities and the communities and the individuals the support for non-objection after submitting the application.

We think that there should be a prior consultation. The timely consultation is one of the best practices that we may implement so as to avoid conflicts and to lower uncertainty.

The document also includes an analysis on the advice received by ICANN regarding .AMAZON. It says that if you have a trademark right, you are not entitled to use that trademark for some other purposes. If you are the owner of, the holder of a trademark, you are protected from others from using it but you cannot use it from some other things like a gTLD.

One of the things that have been evolving over the several draft versions, we thought about list, we thought about repositories of names of communities. We arrived at the conclusion that it would be nonpractical. It would be impossible to update, to keep it updated. So we prepare a best practice guidelines, because we have found some best practices when some applicants -- and I'm really happy because I have a new example of a good practice and I'm going to describe it now. But these are some of the best practices guidelines.

The applicant should make some kind of previous research and (indiscernible) what the name means. There are some names that are quite evident. Everybody knows that Amazon is a river and the Amazonia is a quite large and important area in South America. Nobody has any doubt that Patagonia is 4% of the surface of the whole earth and is part of Chile and Argentina. But you may go to Google and you may Google Patagonia and Amazon.

Some places are smaller but this does not mean they are not relevant for their community because of their size.
So one of the good practices would be to make some kind of previous search of that name to find out whether it is relevant for a community or not.

I found Berlin, that it was mentioned, and I will mention it again. .BERLIN came to see me in 2007 because they had found there was a small town in the northern part of Argentina named Berlin. And certainly I was not aware of that. I did not know that a small town in my country was named Berlin.

They wanted to talk about the project, include them in the project so as not to have any conflict with this small town in the northern part of Argentina. I consider it great. Last week I visited Mexico, one of our dearest neighboring countries, and I found there that .BAR, .BAR is part of a province of Montenegro. I didn't know that. They found it out. They went there, talked to the people over there, and the largest school in the province of Montenegro has the name of Mexico. So they make

an exchange, they sign an agreement and lots of things that improve their relationship and now both parties are happy.

So the previous research by the applicant of the name who is the holder or where it belongs, if it's taken for the new gTLD, we consider it to be a good practice and, in fact, to be the best practice to follow. If there is any doubt, the applicant may go and get in touch with the community that the applicant considers may be affected if the gTLD is allocated.

In the case of ICANN, it has to enhance the outreach.

But we have to think of the outreach we have again. This is the responsibility of the GAC and now the members of the ICANN community. So we should stop talking about ourselves and get off our silence so as to explain topics that are difficult to understand, because these are issues that are new to other organizations, to other entities. So we have to establish clear steps for the applicant and for the governments so we try to reach consensus. There should be some kind of time, some kind of space to reach consensus and some rules that in case of nonconsensus, this happens, particularly for government, so the process is not as complex to explain and express our concerns.

There were lots of concerns talking about the veto power of GAC regarding these topics. The GAC advised the early warnings were part of the applicant guide books. It was not part of a veto power. It was part of the process. The applicant guidebook said that -- and it was a

document drafted by the whole of the community, and included that participation of the GAC.

For future rounds, we have included here some suggestions. Of course, the procedure what has been agreed by GAC in 2007 for new rounds of new gTLDs, explaining that the geographical names and community names should not be used if there is no prior agreement by the community or by the country, by the relevant country. Certain local regulations that protect these names should be taken into account. There are rules in some countries. The gTLD process should be transparent, should be fair, predictable, and nondiscriminatory. There are interested parties -- all interested parties should have the opportunity to make their case, and the government's interest should be heard, taking into account the public interest. And I think we are about to conclude. I have already said that.

The protection of geographic names and other important names for communities do exist, even when it's been translated to some other languages. It doesn't matter whether it is Amazon, Amazonia or Amazonia. It's the same concept. It's the same thing. We don't have the problem in Patagonia, because it's pronounced the same way in every language. This is why it was important as a new gTLD.

If the agreement is not reached, the public interest should prevail. This is what we said when we said the public interest -- there was a problem in the definition of public interest. It is clear from our perspective, but it is difficult to understand by others.

Here you have the links so that you may go to the GAC Web site and find the document. You may ask the document to me by mail. My e-mail address is available to everyone. I showed it in the London meeting. I have received no comments. But if you can read the transcript, you may e-mail me or find me at any social medium.

I think that you cannot see the e-mail address because of a color. But you will find my e-mail on the GAC Web site.

We have received comments from our colleagues from (indiscernible) and Thailand, and they will be included in the next version of the document.

What is the way forward?

We will try to refine the best practices, but will listen to all your comments. We have to work with ICANN to reinforce the outreach initiatives. We have to establish these rules. We have to work for that. And the document is available for comments up until the end of October, end.

A final comment. Some members of the subworking groups, not all members agreed, but some of the members of the subworking groups met with the ICANN staff that is working on the future rounds of new gTLDs to explain (indiscernible) the other document, explain how it is structured. We were welcome. We'll be in close contact in the future so as to exchange information as soon as we get it, and an official of the

document I think will be presented in the Marrakech meeting, or intersessionally, perhaps it may be post on the Web site.

And thanks all of you.

English for questions.

PETER NETTLEFOLD: Thank you, Olga.

So as suggested, we're very keen to hear from people in the audience. I'll be making a speaking list.

First, just one clarification.

So the GAC secretariat has kindly created a dedicated mail account for comments to be sent to the GAC list, which was what was on one of the slides. Please keep an eye out for that. I think it is something like new geo names document comments, et cetera. So there is a dedicated mail account for sending comments to that document, which will be distributed then to the GAC working group.

So it's FutureGeoDocComments@gac.org. I apologize that that text is kind of hard to read. But there is a dedicated mail account which will go to the whole working group.

All right. So in terms of -- I have got Peru, a gentleman here on the end of this row, up the back. I apologize in advance that I'm not going to know everyone's names today, but I will try to keep track. I have you, sir. I'll try to keep three or so ahead. So we'll start with Peru, please.

PERU: I will speak in Spanish.

                                   Thank you, Olga, for this excellent presentation, as usual.

                                   Let me make some comments that I hope they can be translated as contributions to enrich the work that the group has been doing.

                                   First of all, looking at what we saw yesterday in relation to human rights and international law, the same is applicable to this issue. I don't see why we shouldn't include in the guidelines for new gTLD rounds the notion that advances have been made within the framework of the WTO and WIPO that have been moving forward gradually. This is not moving at high speed, but we see advances in relation to geographic indications. And these should be automatically incorporated into the set of rules that regulate ICANN. That is the first comment.

                                   My second comment relates to a topic connected with geographic indications and that we haven't addressed here at ICANN. And I anticipate that this may be an issue when a new round of new gTLDs is called for. And this has to do with biopiracy. As you know, biopiracy is a problem that is affecting biodiversity of developing countries. It is constantly threatened. And many biopiracy-related issues have a connection with geographic reference. So I believe that all this notion of geographic indications has to be widened, has to be broadened in order to include what is taking place within the framework of the WTO and the WIPO in order to include also the topic of biopiracy.

And for that purpose, I am willing to offer a couple of suggested paragraphs.

OLGA CAVALLI: Your help will be appreciated.

PETER NETTLEFOLD: Thank you, Peru.

So to the gentlemen on the end.

JAAP AKKERHUIS: Good morning. I'm Jaap Akkerhuis, representing here the ISO-3166A.

They asked me to put in some words about the use of 3166 in this proposal. And the -- they will actually send an official mail later on about this, but they already want to caution about the use of 3166.2, because that is not -- the whole standard 3166 is not about names; it's about codes. I mean, part 1 is the country code. And these codes are used for ccTLD. And the names are just for information.

Part two -- and I quote here from the introduction of the standard -- is, establish a new virtual application for code for the (indiscernible) of name of principal, administrative subdivision.

So it's not even about geographic names at all. And that is best illustrated that -- by the (indiscernible) is not even in the standard at all. And also, these names can only be -- this is only in relationship with part 1. There are a lot of geographic areas which are not (indiscernible) by one country, but by multiple countries and so on.

So urging to use this as a list of authoritative geographic names is way beyond the scope of the standard.

PETER NETTLEFOLD: Thank you very much for that intervention. If I understand, we will be seeing a written communication. Is that correct?

JAAP AKKERHUIS: Yes. We learned about -- we learned about this just before the weekend. So we want to get in some of the information –

PETER NETTLEFOLD: No, that's very useful. And, obviously, we are looking forward to the written sort of substantive comments. I think that would be very, very useful.

So next I have a gentleman up the back here. Thank you.

MARK TRACHTENBERG: This is Mark Trachtenberg. I'm speaking on behalf of the intellectual property constituency.

The IPC appreciates the opportunity to provide comments on the subworking group's proposal. The IPC has carefully reviewed the proposal and it's developing comments to further inform the ICANN community's discussion of this critical issue which affects all Internet users. We expect to finalize these comments over the next few weeks and will provide them to the GAC. Hopefully, members of the GAC have

received an executive summary which we recently distributed. In the meantime, I'll just very briefly summarize the key issues as we see them. First, the restrictions set forth in the proposal would prejudice and disadvantage intellectual property rights that are explicitly recognized under international law and existing treaties.

Second, there is no basis in international law for the governmental consent requirements set out in the proposal, and in practice, this would be unworkable on a large scale.

Third, as trademark rights are territorial, so is national sovereignty. International law does not confer priority on governments relating to the use of geographical names outside of their borders. Any such international protection or exclusivity would be derived only from international treaties, such as the Paris Convention in TRIPs. The same treaties that require nations to provide protections for private parties' intellectual property rights.

Fourth, the use of geographic names as gTLDs is not inherently contrary to the public interest and is entirely dependent upon context.
There is no basis to assume that the use of geographic names as TLDs will evoke the geographic location and its population, thus inevitably leading to public and consumer confusion.

Fifth, in many contexts, the primary significance of a term is its significance as a trademark and not its geographical indication. Thus, governmental interests in protecting geographic terms do not and

should not have a per se primacy over private property rights and trademarks corresponding to new gTLDs.

Sixth, new gTLDs that correspond to trademarks serve the public interest as well as the interests of the trademark owner. They prevent consumer confusion in the marketplace, thereby improving consumer trust and confidence in the domain space.

Seventh, there is no international legal basis for elevating protection of geographical place names over geographical trademarks in the context of new gTLDs or, indeed, in any other context. In fact, this is inconsistent with and contrary to global trademark norms.

Eighth, and finally, the scope of the proposal is both vague and indefinite. In particular, the inclusion of terms which fall outside of geographic terms, namely, regional language or people descriptions, could lead to unjustified suppression of a wide range of otherwise lawful potential gTLDs to the detriment of any future new gTLD rounds. There's also no way an applicant could know if a potential TLD falls within the scope of the proposal, creating additional unpredictability and complexity in the application process.

And additionally, including these broad categories of terms creates a very slippery slope that further undermines international legal principles and could result in unjustified exclusion of potential gTLDs that could deliver significant value to the community in future rounds.
Thank you again for the opportunity to engage with you on this very important topic. And we look forward to further discussions.

>>   Hi. If I -- I'm not mistaken, you said you sent an executive summary to some members of the GAC. Would you be so kind to send it to me?

>>   I believe we sent it to the secretariat. And I think it was distributed to everyone.

OLGA CAVALLI: Okay. Because I didn't see it. I would have loved to see it.

PETER NETTLEFOLD: Thank you very much for that comprehensive statement. We understand that there is a comprehensive document coming and, obviously, there's an executive summary. I confess I also have not had the chance to read it yet. But, obviously, we welcome this input.

                           I think you've highlighted the reason very succinctly why we've started this dialogue with the community as early as we can.

                           As we've been hearing from ICANN staff throughout this meeting, thoughts are turning to future rounds. There's obviously a lot of caution about the timing and process for doing that. But one thing that everyone seems to agree on is that we all have some things that we would like to potentially improve there this round. This is one of them.

It's complicated. It involves very complicated legal issues. And so we look forward to an ongoing, continued, robust dialogue with the community on this.

I think you mentioned "vague and indeterminate" a couple of times. I think -- and "predictable." That's certainly one of the goals of what we're trying to achieve, is some predictable, robust process for future rounds that give some level of certainty to all parties. I think that's one of the challenges we faced with this round, is when we jumped into it, that's not what we had. So I agree, we really look forward to an ongoing dialogue.

I understand from Julia that we have a comment from AdobeConnect. I'm not sure how, technically, we will do this. But Julia, if you could read that out, that would be very welcome and useful at this stage.

OLOF NORDLING: And this is Olof Nordling, and I grabbed the mic. The comments from the IPC which we just heard have been well received and have been posted on the GAC Web site already.

And we do have a comment from a remote participant, notably, Brunella Longo from open data assurance in the U.K.

And I quote, "I understand the reasons why and sympathize with the approach that reflects real problems of specific communities. But the protection of G names is a technical and governance issue very different from any question pertaining to role participation and specific

peculiarities of some countries and economies and communities. This is a matter for ICANN to understand and define the fundamentals and universal rules that will must apply for geographic and social, cultural, and anthropological dense, within quotes, names.

Speakers should concentrate on a general rule to move the matter forward from a policy and governance point of view, end quote.

PETER NETTLEFOLD: Thank you, Olof, and thank you to the contributor of that comment.

So the speaking order as I have it now, I have Iran, Norway, the E.U., and the U.S. I am also very interested if there are non-GAC members who are interested in commenting. I don't want this to be a GAC-only discussion. I'm happy for it to be a GAC-only discussion if no one else wants to speak. But we obviously have a GAC mailing list to contribute to this. So I am really interested in hearing from other community members as part of this discussion.

And we have Switzerland and Chile as well on the list.

Okay. In the absence of seeing non-GAC hands, I will now pass to Iran.

Okay. I have a lady in the back. I'll come to you next. So Iran, please.

IRAN: Thank you, Olga, thank you very much for the very hard work that you have done. It is something on which you really have a devotion and is very close to your heart because of certain reasons.

Distinguished friends, the issue is very, very complex, has a lot of dimensions, including legal framework in case of some decision-making. There are many areas and many entities involved in that. We talk about ISO. The purpose of the 3166 was not initially or necessarily established for any new gTLD. It has some other purpose. It is mentioned that the purpose of that is to establish an international standard of short and the unique alphanumeric codes to represent the relevant (indiscernible) division and dependent territories of all countries in a more convenient and less ambiguous form than the full names. That is some sort of abbreviation for Latin. That was not for that purpose.

So you -- in your (indiscernible), you mentioned that we have to enhance that. We need to find the criteria of the enhancement, in what way we want and we can enhance them, how we enhance them, and who will enhance them. And who will be involved in that enhancement is a question.

Colleagues refer to geographical indication, geographical names. They are two different things, entirely two different things. They are not the same. So we have to distinguish, are we talking geographical indication or are we talking geographical name. I think we are talking at this stage of geographical name, but not geographical indication. Other organizations, WIPO, WTO, and others may be involved. So there is a need at least from this meeting we indicate that from the first study that any action relating to the second round of new gTLD must be postponed until we have the clear idea about geographical names in the

form of review and -- full review and necessary revision of the guidebook.

This is an important element. Otherwise, 50%, 60% of our time has been spent on that. In the future, we may have the whole period of the GAC dealing only and only with this and we get nowhere, because there are no basis of (indiscernible). So we have to clear that before. That should be a message. And I request that that be included in the communique of this meeting to ICANN. Please stop. And then next step, what we do, whether we do it just in the GAC or whether we call upon ICANN also to further explore the situation and study the matter and involve in arrangements to work with us more closely in this matter to find out what are the problem, what are the areas, and where we can have the -- the output in order to further improve the situation. Perhaps I think that this subworking group and working group, now we should just have a working group dealing specifically with geographical names and should not have subworking group of a group, should have the working group of GAC and maybe working group of GAC and, I don't know, whoever, dealing with this issue.

So in our view, for the time being, we just collect the information.

We have heard a statement of some colleagues. We have heard the sensitivity of other peoples, and we have heard that some of the names currently in the ISO, they are just taken from the national information provided, so they need to look at the further information and first complete our basis document, and then to see what we can do.

But most important is the international legal framework. Who will deal with the matter in the case of discrepancies and difficulties? Which court will deal with the matter? Court of a particular country? Or international law? That is a very, very important.

Thank you.

PETER NETTLEFOLD: Thank you, Iran. I think you've raised a very important point in that as we are having these discussions with the community, and as attention is starting to turn to second rounds, a question of how we handle this from a process point of view is extremely important. I'm aware that tomorrow morning there is another country and territory name working group which is meeting at 8:00 o'clock in the Encino, I think it's pronounced, room. I would like to attend that. We need to coordinate these efforts and perhaps we end up with just a working group. I agree, this is something we need to start thinking about seriously.

As I said, I'm very keen to hear from non-GAC members as well as GAC members.

The lady who is up the back, who Tracy informs me is Robin Gross, love to hear from you.

ROBIN GROSS: Hi. My name is Robin Gross. I'm a member of the noncommercial stakeholders group.

I wanted to appreciate this opportunity to provide some feedback on this proposal. However, I've got some concerns about it. I'm particularly concerned how it undermines ICANN's multistakeholder policy development process, which is where the policy is supposed to be made, in the policy development process, particularly the GNSO. And so this proposal is contrary to what the GNSO has come up with on these issues. So I'm concerned about that tension and what this means to the -- what this could mean to the bottom-up policy development process, and particularly the GNSO.

I think that this proposal, unfortunately -- and it would encourage governments -- or I would encourage governments, rather, not to use ICANN to replace legitimate international law-making forums. This is dangerous to the multistakeholder model at this time. I think it only opens ICANN up to criticisms of engaging in what could be called policy laundering, where if you can't get a particular policy in a legitimate law-making forum, you can go to ICANN and get a global rule without an appropriate process.

I am also concerned about this proposal because I think it presumes, it takes for granted, that the public interest is in regulating language along these lines. And, frankly, that hasn't been decided. And we can't skip that discussion and take that presumption for granted.

So I'm particularly also concerned about the impact on freedom of expression that this proposal brings. It doesn't match legal protections on these issues. Those are bounded. Those are global. They're not global as this proposal would be.

And simply from a practical standpoint, it's not possible to know what words countries are going to be sensitive or proprietary about in advance.

So I have deep concerns about this proposal going forward.

Thank you.

[Applause]

PETER NETTLEFOLD: Thank you very much. You raise a number of very important issues. As with my previous comments, I hope you're going to send in something in writing. You've raised some very pertinent points that we will need to deal with. So I do genuinely look forward to seeing those.

We have the record here, so we know them anyway. But it would be useful to have a written input.

In terms of your first point, though, in terms of process, I'd just like to quickly address that in terms of the GAC and GNSO's roles within ICANN. We are certainly not looking to circumvent the GNSO process here. What the GAC is simply trying to do is to get itself organized on an issue that you will probably be hearing from the GAC from in some way or another so it may be in a different form to this early draft that you've seen. But this is a collection of ideas from individual GAC members which we're seeking very early input from the community on.

So if you want the GAC involved early in processes -- and this is a future process that hasn't even started -- here is us trying to get organized. And we're genuinely interested to hear from you. What you hear from

the GAC ultimately may be very, very different. So we're looking to prompt discussion. So please take it in that spirit.

I now have several governments who are keen to speak, and I am mindful that I'll have to wrap up at some stage, because according to our agenda, we're already 25 minutes late. So at some stage, we'll come back and want to move on.

So I currently have Norway, E.U., U.S., Switzerland, and Spain, and the U.K. Chile as well. Very sorry.
So that's seven.

I would plea that you really keep your interventions extremely short. GAC members, we can continue these discussions amongst ourselves at some other time.

So in the interests of having a break, particularly as in that break I'm hoping to talk to interested GAC colleagues about the IANA transition, please keep your interventions on this quite short.
So first I have Norway.

NORWAY: Thank you, Peter.

I will be very short. I think you made my comment just a few seconds -- minutes ago when you said the importance of coordination between the Cross Community Working Group on names, country and territory

names, that are already there so we don't duplicate work and we also sensitive for the different opinions we have in the two groups.

That's one thing.

But I want to thank Argentina for taking this work forward because you see all the debate we have today, then this is obviously a very important topic. It's going to cause a lot of temperature, I guess, in the future also. So it is important to keep a hand on this.

Thank you.

PETER NETTLEFOLD: Thank you, Norway.
E.U.

EUROPEAN UNION: Thank you very much. I'm going to be also very short.

First of all, thank you, also, for bringing this very sensitive issue forward.

I think it's really important, though, what our Iranian colleague talked about, and that is the fact that there is this distinct difference between the discussion about geographical names, the sensitivity that it comes up in a number of countries. I'm talking for the E.U. we have no legislation whatsoever on geographical names, but we do have a lot of legislation and important legislation on geographical indications.

So I think just very quickly commenting on the gentleman from the IPC, I think it would be very useful if we sit down and discuss a little bit about what is the international regulations and context around geographical indications. I would be very happy to have that discussion with him because the feeling that I had is that you know that there is a discussion about the interpretation. And we've had that discussion very thoroughly in this room before. There is a different in interpretation on how to interpret the international law. I'm talking about the TRIPS agreement, I'm talking about a number of other international multilateral treaties. But I think his view expresses very simply one of these interpretations, and therefore I would be very glad to link up with this gentleman afterwards and we can discuss further our problem.

Thank you.

PETER NETTLEFOLD: Thank you, European Commission.
                          Chile.

CHILE: Thank you, Peter. Many of our comments were already expressed by other members so I'll be very brief. I just wanted to thank Olga for the effort and the group. And we would like to invite the whole community to this collaborative effort, and to use the designated email address to comment on this.

Thank you very much.

PETER NETTLEFOLD: Thank you, Chile.

United States.

UNITED STATES: Thank you, Peter. And I, too, will do my best to be brief. Obviously I want to thank Olga again for all of her efforts, and I'd like to take the opportunity to thank the non-GAC members in the room for joining us and to make a very strong suggestion that in Marrakech, we prepare for a much longer session and work with other parts of the community to collaborate on an agenda that actually facilitates this kind of a more direct exchange, if you will, rather than simply comments.

I take the point about coordinating with other efforts under way. Clearly, it's best to pull all these threads together as early on as possible rather than later.

So I urge us to consider a much broader, much more tightly organized session that includes everybody at the table to compare notes.

And one thing for our sake, from the United States, we have not yet -- we're not yet in a position to endorse anything that's in the current draft proposal, and we take your point -- Olga, I see you nodding. It is currently a draft.

This is a critically important set of issues for all of us, so we are looking at it very seriously.

One thing I'd like to point out that we believe does need to be addressed, there are multiple references in the document to the, quote, "public interest," unquote, and yet there is no definition.

So I take the points about the references to international law, international legal frameworks, national law, and now I believe we need to add this public interest concept to the list of what we need to understand, how we are all interpreting it and defining it.

Thank you.

PETER NETTLEFOLD: Thank you, United States.

So I have Switzerland and then Spain and U.K., and then I'll be looking to wrap up.

So Switzerland, please.

SWITZERLAND: Thank you. And thank you to Olga and everybody who contributed to this very interesting debate.

I think we should first of all not forget that there are different concepts and systems throughout the world that deal with trademarks, with geographical indicators and all these questions. And, for instance, in my country, where I come from, you can have a trademark with the name of a city. You can even have -- maybe you know the airlines that has a

nice cross at its wings that is called Swiss international airlines. They use a trademark for Swiss, but it is -- and that is the difference, and we need to make the difference. That is a figurative trademark. They have a trademark on the font, on the color and the way it looks, the thing looks, but they have no trademark on the word "Swiss" because in our culture this is a publicly common good. All the city names are protected as belonging to the public. You can an insurance company, whatever, and use the city name in a figurative trademark, but there is no way, it is illegal to have a right on the word. Because this -- and Robin is right, it is a freedom of expression issue.

In our concept, this is at the disposal of the people, of the community to use that word, and nobody can have a private right on the word. It's different with the logo.

So this is something that we should take into account. And I just want to recall to you that if you look at the GAC principles of 2007 on new gTLDs, it says that it should ensure to allow procedures to allow governments, public authorities IGOs to challenge abuses of names with national geographic significance at the second level of any gTLDs." This is just what I found immediately.   There are other references to protection of geographical and cultural names. The problem is, and this is something we need to all sort out together that we don't have a definition, a satisfactory definition of what a geo name is, and this is, I guess, the basis before we get to any operative conclusions; that we need to get an agreement on when what a geographical name is, which is not very easy. To governments, it has not been too satisfactory that in the Applicant Guidebook this is limited to capitals, country names,

and subregions of a country. For instance, our biggest city is not a geographical name according -- I will close -- according to this. So we will need to find a solution together but please note there are different concepts and the thing is slightly more complicated than we might think.

Thank you.

PETER NETTLEFOLD: Thank you, Switzerland. So I can see people coming in for the next session, so really, a plea for brevity. Spain and the U.K.

SPAIN: Thank you. The issue is, indeed, very complex, and I don't think we can approach correctly to this issue. I say we have legitimate rights and you don't have anything on your side. You might recognize that peoples and governments have sensitivities over those (indiscernible), and I think we could (indiscernible) and collaborative mode to try to understand each other and try to arrive at agreeable solutions for all of us.

So I would encourage representatives from the business constituencies, (indiscernible) right constituencies, to really engage in that dialogue with us.

Thank you.

PETER NETTLEFOLD: U.K., final comment.

UNITED KINGDOM: Yes, thank you, Peter, and thank you, Olga, and thank you everybody who has made contributions to this very important discussion which impacts on many economic and political issues.

I support what the U.S. said in terms of constructing a fuller dialogue on this issue with all stakeholders involved. I just make two observations. There are many more brands who applied in the current round than were anticipated. I think that's generally agreed. If fees come down for the next round, there will be many more opportunities for small and medium sized enterprises, so this will be a specially relevant issue for them.

My second observation is it rains a lot in the U.K. so we have many rivers. We have many mountains. And accordingly, we have thousands and thousands of companies which have names of rivers and mountains incorporated in them. So I just make that observation.
Thank you.

PETER NETTLEFOLD: Thank you, U.K.

And thanks to everyone who has engaged on this issue.

I think one of the things we'll take away from this, and it will be I and Olga and others will be happy to discuss with others in the community, is how we find an appropriate mechanism to take this forward. So the GAC has taken some first steps, reached out. We've had some very good discussions. We now know and we're increasingly seeing

infrastructure in other parts of the community on these issues. So I think we have a very real and live question about how to coordinate and go forward together on these complex series of issues.

So thank you very much, all of you.

 I assume I will see many of you tomorrow at 8:00 in the other discussion on this same issue, and look forward to making some good progress intersessionally.

And thanks very much to Olga again for all your hard work on this one.

Oh, I have to take on.

OLGA CAVALLI: Thanks to you and the great audience. Thanks for the comments.

We would love to hear from you and to go forward, so we can lower our uncertainties and do a nice and smooth process through the next round.

Thank you so much.

PETER NETTLEFOLD: For GAC colleagues, don't go too far. I can see our next people for our next meeting coming into the room. So we'll be resuming again quite shortly.

[END OF TRANSCRIPTION]