

Government Advisory Committee – GNSO New gTLD committee Teleconference

16 April 2007 at 13:00 UTC

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<http://gnso-audio.icann.org/GAC-GNSO-20070416.mp3>
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Philip Sheppard: Now, I think we'll start the call and discussion.

Operator: Excuse me, Kristina Rosette now joins.

Philip Sheppard: Ms. Kristina, welcome.

And I say the purpose of this call really was (with this) opportunity for the GNSO gTLD committee, which is all accounts (unintelligible), other members from the constituencies to have a perhaps better understanding about some of the thinking behind the GAC principle.

I think one of the things we heard noted when we first discussed this in Lisbon was there was a very good communality, I think, between a number of those principles and either principles that we had laid down ourselves in the report or had been working on in terms of implementation IDNs.

And what I was really hoping to achieve today I think was just to see whether clarifying questions in either direction indeed about the nature of those principles. And I have understood from previous conversation here that (Yani), you can be on the call for a little while and we have (Bill D.)...

((Crosstalk))

Philip Sheppard: ...he's going to be the best - to field some of those - the question specifics. Is that correct?

(Bill D.): Yeah, indeed. I can stay about 20, 25 minutes and then I have to drop off unfortunately, (I think) unexpectedly for me.

But (Bill) - since (Bill) was the (client) of this issue, so he will be facilitating - it does not mean that he will speak for everybody on behalf of the GAC, but he will facilitate the discussion (unintelligible).

Philip Sheppard: Yeah, that sounds very well (unintelligible) indeed.

I think probably the easy thing to do is just to take discussion and blocks based on the various principles that was there. And certainly, I said well I would ask members to raise or give their questions as we go down them and also I've got a list of some questions...

((Crosstalk))

Philip Sheppard: ...that had come up during our meeting in Lisbon and (Saints), which I will put in on behalf of the group if somebody is not on the call to raise those directly.

Man: Yeah, if, Philip, I can tell you that we distributed for the GAC list the questions what Bruce sent to me.

((Crosstalk))

Philip Sheppard: Uh-huh.

Man: So that GAC members have that in front of them.

Philip Sheppard: Okay, that's (pretty useful) so thank you. That's useful to me.

So speaking of (straight away) with principles under Part 2 of the paper, (unintelligible) the aspect of gTLDs, 2.1 which is derived into two parts. It's to do with TLDs expecting both Universal Declaration of Human Rights under Part A and under Part B, sensitivities regarding terms of national, cultural, geographic and religious significance.

May I ask if any specific questions on that particular principle?

Chuck Gomes: Philip, this is Chuck. I have some questions in that regard.

Philip Sheppard: Okay, Chuck. (Well it's going to be awesome) if we check we have a queue first.

Kristina Rosette: Yes. So this is Kristina. I have some additional questions.

Philip Sheppard: Kristina as well. Anybody else?

(Stefano): (Stefano) (unintelligible), yeah.

Philip Sheppard: (Stefano), welcome to the call. Okay Chuck...

((Crosstalk))

Chuck Gomes: Okay. Thank you, Philip, and thanks everyone else for joining this call.

The first question I had was what criteria can be used to determine whether a proposed gTLD string violates this principle? I think as everyone knows, we're trying and I believe that the GAC in your principles has also emphasized the need to be very objective.

So any assistance that could be given with regard to how we can objectively measure this would be very helpful. And if it's not possible to develop objectively measurable criteria, who should make the - what then becomes a subjective judgment that would apparently be required and then last of all, are there any examples perhaps within ccTLDs that any of you are aware of where such criteria have been established and implemented?

Philip Sheppard: Okay. (Bill), do you want to steal that to start with?

(Bill): Sure, yeah. I think these questions were - I think I've got them here, actually. I think they were (unintelligible) forwarded before.

In relation to the Universal Declaration of Human Rights, I (unintelligible) actually, I mean my understanding is I'm not an expert on international law, but the declaration doesn't provide separate criteria. (Unintelligible) is how to interpret them. They're taken as a part of your language actually in terms of rights and public policy objectives for the signatories.

So, no, I think the answer is probably no. There is no readily available list of criteria that could be used actually to interpret them.

I think I find it easier to answer perhaps the second question, which is if it's not possible to develop them, who should make the subjective judgment that would be required. And I think the answer for me is clearly the ICANN board, given that they will ultimately make the decisions on new gTLDs and the final analysis actually. And I would have thought actually it's extremely unlikely that this - I would hope it's extremely unlikely that this particular provision in the GAC principles whatever need to be invoked.

But I think it would have to be - if there is a problem, it would have to be analyzed and reviewed on a case-by-case basis, and it would depend very much whether an individual stakeholder particularly the governmental stakeholder in the GAC felt that a new gTLD application violated these principles.

Philip Sheppard: All right.

((Crosstalk))

(Bill): And finally, the last question which was ccTLDs is - I don't know. I don't know if this had been - if any has attempted to implement this under cc TLD.

Philip Sheppard: All right. So would it be fair to say that in terms of the, if you will, like the way these principles may be best used in fact given the process, is that the GAC would wish them to be in fact to be entered to the process that the GNSO is doing and as ever a lot of the details is going to be then in the way that these things are implemented and there were some guidance the GNSO is giving an implementation, but a lot

is going to be determined in terms of the processes that ICANN staff will be creating based on that.

And at some extent, it would almost be up then to the GAC to say, well now we've seen the way you're finally implementing that. We've got (unintelligible) the questions related to principles A, B or C. I mean will that probably the mechanism where how these principles would relate to the ongoing process?

(Bill): Well it's a good time for me to jump in actually and just reiterate what (Yani) said early on and that is I can't speak on behalf of the GAC.

Man: Yeah.

(Bill): And the two reasons for that, one, either have mandates (unintelligible) on behalf of the GAC; and two, we haven't discussed this yet.

So I mean my personal reaction is that I think saying this should be factored into the process that is being developed within ICANN. It's probably too strong a language actually. I mean it's - I think for most GAC members, this is a bold statement of the obvious actually.

And we would anticipate everybody agreeing that anything we do within the ICANN context should not violate the Universal Declaration of Human Rights, and I think it's only really to put our market down. From a political perspective, we understand actually that this is an important market to put down. It's not I think particularly because people want to see that translated into some form of procedural step in the policy development process or in any future selection procedure for gTLDs.

It's merely that if in extreme is in worse case scenario. There was a gTLD going through which our GAC member (felt) - raised issues related to this particular political concept actually that they'd be able to say we have put market down in the past and now we're going to invoke that one.

But as I say, I would have thought personally actually, it's extremely unlikely that we'll be looking at that unless something is going catastrophic hereon and they're in the process before it gets to the GAC.

Chuck Gomes: Yeah. May I give you example (unintelligible).

For instance, if somebody's coming up with the idea of having string (dot KKK), we know that many people associated KKK with Ku Klux Klan. So - and here is a direct link with this principle we're talking about. That is - that goes against the principles involved in Universal Declaration of Human Rights.

(Bill): Yeah.

Chuck Gomes: Well in general - generally speaking, I think that in all circumstances, we need to be guided by a common sense and what GAC did (unintelligible) this principle is just put on the paper things which are important from public policy perspective, things that they would be applied by using common sense.

Philip Sheppard: Okay. I think that makes sense as well.

Kristina, you had a question also on this.

Kristina Rosette: Yes, I do and I apologize. It has not been previously circulated, but I posted (unintelligible) last evening.

And this is really, I think, more of the backend of what Chuck was talking about in the sense that the GNSO council has been discussing the process through which a third party or parties could challenge or propose gTLD.

And at present, the relevant implementation guideline calls for such challenges to be resolved by external dispute resolution providers and what I was hoping we could get some guidance on are the following:

First is the GAC suggesting that third party should, under such a system, be permitted to challenge or propose gTLD on the ground that it violates these UDHR provisions or reference sensitivities.

If so, which third parties would be qualified to assert such a challenge, what should they be required to prove and finally, with regard to the dispute resolution mechanism itself, is there an existing entity that has the expertise to resolve the challenge based on these grounds.

Philip Sheppard: Uh-huh. Kristina, all excellent questions, (unintelligible) answerable in fact by a GAC (unintelligible), but (Bill) (unintelligible) colleagues.

(Bill): Well I'm happy if anyone else answers them. I'm just looking through the list of GAC numbers that are on the call actually, but while they are thinking about it, I think it's fair to say that this (unintelligible) something we have discussed here in the GAC.

And my own feeling, again, on the personal level, actually is that this wasn't intended to set up a specific procedure for challenges actually. This is may be to make this statement, which was very important for (governance) actually that whatever the procedures, they should respect the provisions of the Universal Declaration of Human Rights.

I think you'll see that we haven't thought to go to the next level actually and define challenge procedures for different types of stakeholders. So I'm not really sure what I can add at this stage to that actually or indeed even if we did go back to the GAC and talk about this whether there would be any great appetite for the GAC seeking to define implementation procedures along those lines.

But - and it raises a more general question that I have on all of these questions and that is the GAC, I think sensibly actually sought to try and avoid defining levels of procedure implementation scenarios too higher level of granularity.

In other words, to take step back and just state public policy principles that we felt were important. And I supposed to bounce the question back, the question is, are the GNSO asking (unintelligible) to the next level and define various source of procedural steps that we would like them to take because that's quite a big question actually for the GAC, I think.

(Bill Graham): (Bill Graham) here. Sorry, I didn't announce (unintelligible) the call from (unintelligible).

(Bill), I very much agree with you on that. I think what we were trying to do with the GAC and again (unintelligible) that I'm speaking only from the perspective of the Canadian representative was to set out these broad policy issues.

I think on the question of an appeals procedure, there are series of questions on 2.12 as well that goes to that same point that was just raised.

As a GAC, I think this comes (partly) to the issue of what is the role of the GAC and partly to the issue of the timeliness of a GAC response. The GAC is not going to be very quick in getting down to the level of granularity that we're facing here, I think. If we want to we probably could come up with a very detailed procedure, but I think it would be a very lengthy process to do that.

What we were hoping to do here, again in my view, was try to come up with some broad principles going to the point that (Yani) has just raised about common sense.

We were trying to indicate some of the comments and principles that would need to be applied and in the case of the UDHR, you know, there's a pretty clear series of things that are well accepted around the world as being unacceptable. We shouldn't go there in the gTLD universe.

On the question of an appeals process, very sensible question. Yes, the GAC is saying that a third party should be able to intervene on this; no, it hasn't defined what those third parties are.

My recollection of the discussion was that there were some questions as to whether individual government would be among those third parties. And I think the answer there, if I'm not stepping too far outside my mandate, would be yes. There was less agreement as to whether it was likely the GAC as a body would every get to that point. And for the same reasons I just raised of timeliness and the political sensitivity (unintelligible).

Philip Sheppard: Okay, (Bill), thank you for that very helpful application also.

Let's get on to 2.2 where the GNSO group I think had a clarifying question that we raised in Lisbon, 2.2 covers that ICANN should avoid country, territorial place names and country territorial or regional language or people description unless an agreement with the relevant government or public authorities.

And we spent a little time in our group trying to differentiate between the concept of names and descriptions, and we suspect that perhaps (unintelligible) that you had done in the GAC that have also kind of answers some of the earlier discussions and one that if maybe some examples of those could be provided and in particular with in country territorial place name is perhaps easier.

But in terms of descriptions and the relevant authorities related to descriptions, (unintelligible) we thought was getting more clouded and if you had any thoughts or help on that.

Man: Well I'll jump in again actually given there's a bit of silence and just say that I think this is a very legitimate question, actually. It's one I would prefer to do is by asking the GAC members actually to come up with

the examples you've asked for. And there's a specific reason for that and that is that this touches on issues of national sovereignty and national sensitivity and it varies by country actually.

Some countries are famously sensitive about geographic names, and we discovered this in the European Commission in Brussels (unintelligible) and we had some of the provisions. Some member states actually were very sensitive, others weren't. And I think what we come to face is like people descriptions as well.

I think there'll be a lot of GAC members who perhaps don't have particularly strong feelings about that, but it's something that came up in the discussion last year in our working group whether there are some sensitivity about - I seem to recall actually about the names of presidents or heads of state.

And I think it's worth recalling that this was always - we were having these discussions with a backdraft of XXX in the background. I think that's probably what people were thinking about, were worried about and felt they had the need or wanted to have the right to block or reserve head of state names actually in relation to top level domains that they felt would be inappropriate.

But this will vary again by top level domain. I mean for some top level domains, I imagine, there'll be more sensitivities than others, .travel last year was an example where geographic names actually clearly have more inputs than perhaps .jobs or .coop.

So - but I think the question is legitimate. I personally don't have any examples to give you from my perspective, but there are other GAC members on the call. I don't know if they have any examples to offer.

(Gary): And this is (Gary). Can I ask a question while you guys are thinking?

Is there some implication in this that (unstated) languages are not going to become a matter of sensitivity because there's no government that's likely to react one way or the other?

Philip Sheppard: I'm sorry. Could you repeat that question?

((Crosstalk))

(Gary): Languages that are not associated with any particular country, unstated languages which often are spoken by rather vulnerable population groups, are they sort of going to just (unintelligible) this particular set of GAC because no government are going to tell one way or the other or likely to tell one way or the other.

Philip Sheppard: I think it's fair to say we never discussed that particular - I mean we're not experts on linguistics, most of us in the GAC actually, but that sounds like an interesting issue for us to reflect on.

I would have thought that even if - the idea of state of languages is an interesting one. I'm (unintelligible) people speak them (unintelligible) somewhere, actually and that would therefore generate a degree of political sensitivity and the country concerned, but maybe you have examples that might not be the case.

But I don't think the intention here was to exclude anyone with a legitimate cultural interest in their language. Certainly wasn't the intention of anyone in the GAC, I'm sure.

Philip Sheppard: Okay. But might be that the person who does have the sort of (unintelligible) phrase relevant authority as I can paraphrase and maybe that helps (unintelligible) with that. Okay. Perhaps we should move on in the interest of time on...

Chuck Gomes: Philip, just a...

Philip Sheppard: Yeah.

Chuck Gomes: Just a quick comment. This is Chuck again.

I think (Bill) picked up on this because he mentioned people descriptions, but the two elements in this question that I think would - are in most need of clarity are regional language and people description.

Philip Sheppard: Uh-huh.

Chuck Gomes: As you pointed out at the beginning, I just wanted to leave that thought so any direction that the GAC can provide in that regard would be very helpful.

Philip Sheppard: Okay, Chuck. Thank you for that.

Kristina Rosette: Philip, it's Kristina. I'm sorry, I didn't announce myself on the call. I just wanted to let you know that I'm here and I'm taking notes of people

speaking, but I'm assuming the call is being recorded. So I'll use that to input into the report.

Philip Sheppard: Excellent, (Kris). Thank you very much.

Kristina Rosette: Thank you.

Philip Sheppard: On 2.3, we didn't have any specific questions on GNSO side. In fact, 2.3 coincides very much with provisions for taking away in our work going forward in terms of sort of copyright.

2.4 relates to consumer confidence and security and confusing similarity where again also, there is a resonance with what we currently have in the GNSO work.

And perhaps one question that came after that has to do with phraseology, which will be it might help to have more clarity on was meant by letter. And the question was, this is referred to ASCII letters (unintelligible) (.AA) over those and corporate IDN names, and the normal (unintelligible) code description for that.

(Unintelligible) we discussed in terms of the applicability of these to IDNs in general and this point in particular?

Man: Well I think we have a footnote or a caveat right at the end actually...

((Crosstalk))

Man: ...(unintelligible). Our way of trying to deal with IDN issue separately, and I think it's - I mean we're in the process of talking about how we

might do that. There might be another set of principles dealing with IDN.

But this specific issue here actually is one, which I don't recall coming up in the general discussions we had on the gTLD principles, but it's one that maybe familiar to colleagues dealing with the IDN working group, and I don't know if - I think (Frank) (unintelligible) on the call, actually. Is (Frank) (unintelligible) has anything perhaps to say?

(Frank): My quick comment on - I've done a research in (IP) that the two-letter IDN should also be kept out from (unintelligible) TLD.

(Harry): This is (Harry) again.

What about domain labels that aren't written (unintelligible) at all where the concept of letter is irrelevant through Chinese ideograph?

Man: (Unintelligible).

Man: The Chinese ideograph.

Man: Well perhaps I can jump in then say I think that's something we need to cover actually when we come up with our IDN...

Man: Right, I think...

((Crosstalk))

Man: And I - but we have both - we need to discuss it in the GAC first.

So this is very useful actually. You raised this and you started to train the thought that we're going to have to pursue our (unintelligible).

Philip Sheppard: Okay. That does emphasize...

((Crosstalk))

Philip Sheppard: ...that indeed some of these principles need to be looked at just perhaps in terms of clarification or interpretation in relation to IDN as you've indicated and that - already there. Yeah.

Ken Stubbs: I think, Philip, it's Ken Stubbs. I think it's important to differentiate between characters and letters.

Man: Thank you, Ken.

Ken Stubbs: And maybe we're used to thinking in ASCII when we use the word "letter", but clearly, your character can have an entirely different value in a foreign script than a letter may have in the ASCII.

Man: (Unintelligible).

Philip Sheppard: So if we move on to 2.5, I think (unintelligible) don't have any particular comment there, but on 2.6, we did - I think where Chuck had raised some questions (unintelligible) your call relates to the delegation of TLDs in the selection process for ensuring security, reliability and stability.

Chuck, go ahead with your question.

Chuck Gomes: Sure. I think...

((Crosstalk))

Chuck Gomes: ...let me preface it by saying that the GAC and the GNSO are on the exact same page with regard security and stability, none of us - I don't think we have any argument there that that's number one priority, but when you start adding criteria like geographic diversity and service provider diversity, is it - sometimes there may be competing issues in selecting new TLDs and is it correct to assume that the GAC like the GNSO would put security and stability first and then to the extent that geographic diversity could be encouraged as well that that would also be factored in.

In other words, security and stability number one priority. This other criteria would be - come after security and stability and the second part of the question really was to do with service provider diversity. It's not clear how that would be measured or exactly what the GAC is hoping to achieve in that regard. So some clarity there would be very helpful.

Man: Uh-huh.

(Bill): Well (unintelligible) champion again, I see. (I've been hugging) (unintelligible), but please interrupt me anyway.

Yeah, I think that's a good question, Chuck, actually. I (tally) around slightly and say I think my understanding actually from the discussions we had and indeed from some involvement I had here in Brussels on the question of security and stability issues related to information system is that diversity is normally considered a key component of

security not a threat and that by increasing the diversity in terms of the number of operators that we have, that would normally be seen as a way of trying to reinforce the overall stability and security of the (DNS).

But we have (Peter) discussed that and by contrast, I think it's the development of (monoculture) that we see elsewhere actually that are commonly perceived as being posing a greater threat to security than diversity, but at the same time, we also have a kind of public - longstanding public policy objective, which is to promote competition for (unintelligible) sake actually, and I think that I would be reluctant actually to see that the promotion of competition being interpreted as a threat to security in itself and that would make me uncomfortable actually.

The idea that because then that could be used as an argument really for not having, you know, for playing down competition throughout the system and part of the objective (unintelligible) ICANN and for government's participating in ICANN (unintelligible) see greater competition.

In terms of the phrase - I'm looking at your questions here in writing. Service provider diversity, I think that's a reflection of the fact that we'd like to see competition at all levels, not just in terms of new gTLDs, which is important which is important, but in terms of where those gTLDs are based and operating so that we try and minimize the current concentration of gTLDs in North America and in Europe. And we try and get a spread elsewhere in the world, and I'm sure you'll appreciate (for) governments. That's very important politically.

But that we see not just a diversity in terms of the people submitting the applications, but (unintelligible) the whole process actually of operating the registry and just to again to try and to see if diversity that sort of we avoid the emergence of (monoculture).

Man: I understand that, (Bill), and I guess where I was going in the questions was you wouldn't want - you wouldn't expect to get away from the monolithic approach that you're talking about. Am I correct in assuming that you wouldn't want to compromise security and stability to do that? (Is that a fact)?

(Bill): Well I think what I'm saying is I think it's precisely to try and reinforce security and stability that we want that diversity. It's the lack of diversity that causes me concerns in terms of security and instability if anything, yeah.

Man: I fully understand that and totally agree that diversity enhances security and stability. No argument there at all.

What I'm - let me get fairly specific. So if there was an application for a TLD that was from a new region of the world and the service provider was from a new region of the world, that application would still have to meet the security and stability requirements from a technical point of view.

Philip Sheppard: Well I think - yeah, that's - what I'd say is I think that's a question that ICANN have taken responsibility for in the past in fact in those criteria and I'm not actually that familiar with them myself actually in terms of what criteria that actually set in the past for applicants in terms of

security and instability, but I guess those criteria would be the same for everyone.

((Crosstalk))

Philip Sheppard: So these are criteria that come, you know, promoting competition actually. They come in addition to criteria like that and not in competition with some, I think.

So I'm reluctant to set a high (rank here) because security and stability is always a number one priority for governments, but I think there's a feeling among some GAC members actually that one of the ways to achieve that is by increasing diversity.

(Bill Graham): The other (Bill) here, (Bill Graham).

As I read 2.6 GAC (tech), I thought we'd actually made an effort to create a hierarchy there and that the word "ensures" is a very much stronger word than promote.

But as I read this statement and, you know, maybe I'm - as I read this, we're suggesting that the selection process should ensure the security and stability, reliability and global interoperability. And at the same time, it should promote these other things, but the word "ensure" is clearly a much stronger word to my mind than "promote." I hope that's (helpful).

Man: That's helpful to me, (Bill).

((Crosstalk))

Man: Thank you.

Philip Sheppard: (Unintelligible), but I think also the way that the GNSO work so far also - and also address this is that we've really looked at for the first of (unintelligible), the security, reliability issues as being a meeting - an absolute standard and these other things and become things that could be perhaps judge more relatively.

And certainly, the work at the moment requires standard want to do with the basic technical capability and be able to do with these sort of business and financial capability and the feeling is they are thresholds (unintelligible) set by ICANN that applicants will need to get over and if they meet them, that's fine. If they exceed them, that's fine too, but it wouldn't help their application if they do.

So I think to some extent, we're probably on the same page if having approach to it from slightly different directions.

Man: Can I just answer it?

((Crosstalk))

Man: ...(unintelligible) how intensive the core values of ICANN, which we quote in full actually in the principle's text that they mentioned, you know, the security and stability aspect and promotion of competition as equal objective, there's no hierarchy given ICANN's core values to those two things.

Man: Yeah absolutely.

Okay let's move on if we can to 2.7, which relates back to (unintelligible) the second level criteria and probably coincide specially with the work of some people in the GNSA to do with reserved names. I got no specific questions about that, but I think some also were raised on the list and who would like to speak on those.

Chuck Gomes: Well (unintelligible) it's Chuck again and (Bill) like you I apologize for monopolizing the - this particular principle of - the question raised - in my mind it almost sounds like they would need to be either an individual government or a GAC operational role in the selection process.

Now, based on the previous things you've said, (Bill), I don't think that's the intent, but some clarification here would be very helpful and you have the questions that I submitted in that regard.

(Bill): Sure.

Well in terms of background the intention here, this deals with second level names, actually on the gTLDs once they've been selected and they've been through the whole process.

And the intention here was to provide government with the ability to block names actually with national geographic significance, but they don't want to see at all under the new gTLD. And I imagine this would be done normally actually through some kind of sunrise period actually that would allow them to do that.

And the second part of this provision was to deal with names which (unintelligible) being blocked or haven't been registered by the governments themselves so for whatever reason.

When they feel that the name is being abused and I think, you know, the question in terms of what constitutes abuse, I think again that will depend very much on the specific names, the specific TLD and the specific government term, if concerned they will have to articulate their concern and justify their complain abuse in relation to specific names at that time. So it's difficult to say upfront exactly what would constitute that abuse because, you know, that's - that will always be partly a political issue, actually, and will depend on, you know, on the feeling of parliaments at that time and the governments that are in power and the kind of pressure they came on (unintelligible) from different stakeholder groups that they have at home.

Chuck Gomes: So these particular (unintelligible) aspects of this principle will depend on the local jurisdiction of the government involved rather than a broad principle for gTLDs.

(Bill): I'm not sure I understand that question, Chuck, actually, could you repeat it?

Chuck Gomes: Well, as you noted earlier in this call there are, you know, different governments have different laws with...

(Bill): Yeah.

Chuck Gomes: ...regard to these issues. So if a particular government challenge the - a second level name, then they would be challenging it on the base of -

basis of their local laws rather than in - on any international agreement or overriding principle that applies to all government.

(Bill): Well it might be the law or it might just be a political decision made by government actually that they feel they have to complain about an abuse, which they feel is taking place regarding names being registered which relates to national geographical significance to their country.

We didn't discuss these two indents here actually in terms of governments having to demonstrate a legal basis for doing that.

Chuck Gomes: So in other words they could just challenge it and it should be - the challenge should be accepted?

(Bill): I don't think that what it says. It says to ensure procedures to allow governments to challenge abuses of names.

Chuck Gomes: Well it says block.

(Bill): Well I was looking at B actually...

Man: Okay.

(Bill): ...sorry, the second indent to ensure procedures to allow governments to challenge abuses of names with national geographic significance.

Now, these names are already registered.

Chuck Gomes: Right.

(Bill Graham): (Unintelligible), if I could intervene again briefly, it's (Bill Graham).

The (cracks) of this, I think, is in the opening few words in 2.7 where it says applicant registry should pledge to. So we're not actually saying that this is something that needs to be like ended in the A and B segments.

These are not things that need to be considered in vast detail other than to say that these are clauses that the registrants applying for new gTLDs should be dealing with in the text of their application.

So my sense is this debate is getting down again too far into the weeds and not missing the fact that we're just applying this for anyone applying as something that they should consider a mechanism for in their application.

Woman: (Unintelligible) I've got a chance, may I ask a question, please?

Man: (No, okay), go ahead.

Woman: Thank you.

(Bill) and (Bill), thank you very much. This (unintelligible) brings to mind, but I wouldn't (unintelligible) on a beautiful sunny afternoon in Brussels. It's - just a technical question about the discussion may well be going down into the weeds, but for those of us who've got a design implementation plan that takes these contributions to a kind of (unintelligible) quite important.

So I had a couple of questions about the nature of our position...

((Crosstalk))

Woman: ...which goes to Chuck's point about, well if it's not in law then what's the nature of the objection?

And then how that's handled? It seems to my mind that if that principle is applied, then one would expect that governments would be part of the application process leaving aside for the moment, discussion about registrations of names at the second level because these principles are about new TLDs at top level rather than registration (unintelligible) at the second level for the moment.

So it is an important question to think about the impact of this principle and if you oblige the applicant to pledge that they would adopt the perfect blocking procedures, then it presumes that governments actually have a watching (brief) on the process at the top level.

So that they could (lodge) an objection because clearly there'll be windows of times for objections, anyone is open to object, but I think (unintelligible) more discussion needs to be held around the nature of objection and then what we do with it within the evaluation process.

It isn't sufficient to say, well, just because we disagree with (unintelligible), that's not sufficient for an application process. So we need to look this in more robust criteria about how we determine what a reasonable objection and what isn't.

Man: (Bob), would you put me in the queue please?

(Bob): (Unintelligible) any member from GAC like to fill the very good question from (unintelligible), again in some of these (unintelligible) augmentation issues, which I'm not expecting definitive answers on that and any thoughts, you know, are always helpful.

Man: Well just a quick reaction.

Actually, I think my feelings from the discussions we had in the GAC actually was I said it before, I think it was a very sensible attempt to take step backwards and not to get too involved in defining implementation procedures for reasons I've already mentioned, but additional one (unintelligible) (hour), of course, each applicant may come up or may want to propose a different procedure actually for allowing governments to challenge and they may want to define a different basis on which they feel a challenge would be legitimate and I think since I have from the room in the GAC actually is that we take each one on its merit.

And this kind of approach while it lacks detail does have the merit of allowing the GNSO and the applicants and the rest of the ICANN community to go off and do what they want and the (unintelligible) on the GAC to say if we feel one of these principles has been violated and in an ideal world that means that there should be very little, you know, for us to do which I think was our objective throughout is that we don't get involved in any meaning way - meaningful way in the selection procedure or the definition of selection criteria or in contract negotiations or anything, I don't think any of us want to do that.

So I think the lack of detail in some of these provisions is quite intentional and I think it's - I feel personally (unintelligible), it's quite commendable actually and useful for other ICANN constituency such as the GNSO and the ICANN board.

But we can know your questions and we can discuss them in the GAC and see if there's anybody has any strong feelings and they'd like to give more detailed direction to the GNSO on these issues.

Woman: So this is (unintelligible), would you put me in the queue?

Man: I would indeed. I got (Ken) in the queue and then (unintelligible) and perhaps one off the other and then we'll - I'll finish the line on 2.7 before we move on to other principles, (unintelligible) (again).

Man: Yeah, let me explain my concern.

My concern is ensuring that in a process that we're talking about here that there's a clear definitive timeline for dealing with the issues like that within the process.

In other words if an application comes before ICANN in which there are concerns by, let's say, one of the governments that there may be an encouragement on one of these guidelines. There needs to be a specific timeline to deal with this. We cannot afford in the future to have a situation where concerns are expressed and months and months are taken for deliberation for input by, let's say, the GAC which by it's own admission I've heard (Susan) send - say there's many, many times just can't act very quickly.

Well I could see a situation where one government might have a concern where specifically TLD application either in the process or in some area there, and they could get delayed for - and in terminal (both) time period. So we need to make sure that we have something like this built into the process so that we can offer this certainty that we need.

And I think that's why (Liz) was a little more insistent on trying to drill down in some of these area. Thank you.

Man: And thank you for that.

(Marilyn)?

(Marilyn): Sure, thanks. And like other (unintelligible) I want to thank the GAC members in particular for joining us for this discussion.

My comment and it really is a comment that it comes from my experience in advising a large company, is a question really about having that unique procedures on an applicant-by-applicant basis that will, you know, what - how manageable is that going to be if each applicant has not a framework for guidance but treatments on this concern to the GAC.

And the GAC members then are having to take consultation back home about potentially 10 or 20 applications each with unique approaches say that from a famous (unintelligible) brand holder, the diversity and start of procedures in (Sunrise) has not been really found (favored).

Man: Okay. Any reaction on those two points or do we move on?

Well then that's (unintelligible) I think on both what (great points) well taken and I think these questions for all of us in terms of the way that there's a (unintelligible).

Move on 2.8, this is concerning applicants or publicly document any support they claimed (unintelligible) from specific community.

And again I think Chuck had posted the question which will link to that principle to other principles to do with geographic name, Chuck...

((Crosstalk))

Man: And so for the second time it's my belief that we're on the same page on this one that I think we have covered in the process already a requirement and cases where there's a specific community involved that the applicant document support.

So unless people want to talk about that further we possibly could move on.

Philip Sheppard: Okay. And I'm happy to do, sir, unless I have anything different.

On 2.9 I think there was a link to the work that's ongoing also on one of the GNSO subgroups that the rights or protection group, (2.10), and now on the sections (unintelligible) with operation of new gTLDs.

And we just had a - I think a very GNSO type question, which is, are we all on the same page by - what we mean by registry information to the phrase that appears at the end of 2.10.

And I don't know if any GNSO member wants to comment further on the difficulties of defining what it meant or not meant (unintelligible) information. But it made us do something that we need to clarify some points in terms of bounding what actually is said that there was common understanding in the use of terminology.

Anyone with the GNSO want to say any further?

No?

Then we move on to 2.11, which (all has) to do with (unintelligible), except the significant (unintelligible) movement, and again I think there is already work as possible with GNSO that's on the (unintelligible) well did raise some other questions in discussion GNSO to 12 concerns, appeals process in relation to where the (two) decisions related to pricing changes, et cetera, and one question that we had in terms an appeals process at the moment is that only the public forum on or have the GAC can visit something more formal.

And Chuck also I think can raise question...

((Crosstalk))

Philip Sheppard: ...in terms of the relationship about new entrants for that, but perhaps Chuck you could explain more detail what's meant on that question.

Chuck Gomes: Well Philip, before I go to the questions I had there, the principle says ICANN should continue to ensure, and I'm not aware of any process that's in existence now for this to happen.

So I think the question from the counsel as a whole there and from our discussions in Lisbon had to do with what the GAC is - what should be continued, I'm not sure about that.

Philip Sheppard: Okay. So it may just be a...

Chuck Gomes: I don't think there's an independent appeals process in relation to registry decisions related to pricing changes, renewal procedures, service levels or unilateral and significant change of contract conditions now.

So what is meant by ICANN should continue.

Philip Sheppard: Chuck, I'm not saying the word "continue."

Chuck Gomes: Oh maybe I'm...

Man: (Unintelligible) of 2.12 is what I got down unless that...

Chuck Gomes: Yeah, that's...

Man: Yeah.

Chuck Gomes: ...what I have.

Man: (Unintelligible) (version) issue.

(Bill): I apologize.

Man: Yeah.

(Bill): And just by way of background actually, the original wording on that was that ICANN should ensure, blah-blah-blah.

Man: Uh-huh.

(Bill): And in our last discussions on this then actually some GAC members felt that there were already existing procedures actually which allowed for appeals and therefore be more accurate to say ICANN should continue to ensure, but I'm interested to hear from the GNSO that they don't know what these procedures are.

I had assumed perhaps it might be in the heat of the moment when we trying to finalize the text, I had assumed it might be referring to the ombudsman.

But perhaps you think that isn't relevant in this case. But this is something we'll have to check, I think, with the GAC members who had indicator that there was existing appeal structures in place.

(Marilyn): Yeah, this is (Marilyn). I'd like to ask a follow-up question.

Man: Go ahead, (Marilyn).

(Marilyn): (Bill), I guess from my perspective when I read it, I was concerned if the GAC is proposing that an individual registrant is going to have to

take that they can't complain to ICANN, but instead they have to go to a third party.

You know, that might be feasible if you're thinking about a registrant that's a large corporation who's just satisfied or feel that they've been harmed. But this sounded like we were asking individual registrants to conceivably that they would not have the services of ICANN reporting mechanism or complaint mechanism directly at ICANN, such as exist now on the Whois accuracy, for instance.

The situation involving registry (unintelligible) seems to me to be, you know, a pretty serious theories of complaints that they were going off to a third party, I'm wondering how immediate the disability of the problems would be.

Philip Sheppard: Well I think this is one we need to perhaps discuss in the GAC and see whether we can offer any useful clarification. My personal reading of the word "independent" meant independent from the registry, not independent from my account.

Woman: I read it differently.

Philip Sheppard: Okay, (unintelligible).

Well (unintelligible) some character in that that would help, and I think the third aspect to all this and there's link to the early discussion about should continue was that if indeed the GAC is saying that there should be such processes, of course, half of these processes don't exist for current registries. (There could) therefore be a potential

disadvantaging of new entrants, so I think that's just another issue for the GAC to consider in relation to solution competition.

Woman: Philip, (unintelligible) can I add something?

Philip Sheppard: And that was I think one concern this (unintelligible) of our discussions and (unintelligible)...

((Crosstalk))

Woman: Yeah, basically I think it's important (unintelligible) to us again what was said that perhaps there was an assumption that the ombudsman was indeed whether the ombudsman is inside or outside ICANN.

And now the question that the Ombudsman was indeed serving at that function, I know in our discussions that never occurred to us and perhaps (unintelligible) sort to say is there a mechanism in the ombudsman that is working, that is sufficient that needs to continue or do we need to do something more?

Man: Uh-huh, (unintelligible).

Anything else on 2.12 before we move on?

(Well then) let's do (unintelligible) I think with 2.13, 2.14, we have nothing specific on (unintelligible) to the final section (unintelligible) implementation of these public policy principles.

And 3.1 I think we just noted that as a potential implementation guideline. 3.2 nothing specific. 3.3 there were some questions. 3.3

relates to - if individual GAC members or the government expressed formal concerns about any issues, the ICANN board just really consider those concerns, indeed that's part of the dialogue and could explain how it will address them and Chuck I think our discussion were based off to questions (unintelligible) there is now.

Chuck Gomes: Okay. My question is, as you can see there and what was distributed is this principle related to the introduction of new gTLDs in general or is it intended to relate to a specific new TLD that may be proposed?

And maybe I'll stop there and then follow up on that, in other words if TLD .ABC is proposed, is this principle related to each specific TLD or in as a general principle with regard to a round of new gTLDs that the governments and GAC members have expressed concerns and those should be considered.

In the broad case I think that's already covered in ICANN principles and in the process that we're considering in the sense that comment is going to be specifically solicited from the GAC and obviously its members and so forth. So what I'm getting at is this intended more than on a specific TLD level each TLD would express concerns and then the ICANN board needs to consider and address those.

Man: Well I think the intention was for this to be kind of (unintelligible) at the end really and that's why we use the expression (any issues). So I think the answer is it will cover both the scenarios that you indicate there both in terms of the whole process actually and in terms of individual applications.

But you're right, this is - I mean this is really a reiteration actually of what's already in the bylaw.

Chuck Gomes: Right. And then - if it was in the, you know, with specific TLD has been - it seems like then individual government so the GAC might need to be involved in the operational process.

Again, I think you've said that you really didn't intend that and so really all I'm looking at is make sure that we fully understand this.

Man: Well I think we don't want to (unintelligible) actually, but I - it's difficult to prejudice any future concerns that GAC members individually may have about specific application.

So, yeah, I think we - I think this was intended to avoid having a lengthy stipulation actually of different worse case scenarios, where we think issues may not be covered in the above principles, but where we might have concerns theoretically at some point in the future.

And it was considered a neat way really actually to kind of tie the (unintelligible) (text) by just restating effectively the bylaws which say that if the GAC does give advice, which could be for example concerns, but the ICANN board should fully consider those concerns.

Now, at the moment it says in the bylaws the GAC as an entity. This does have the additional provision that would allow individual GAC members to raise concerns.

But we felt - I think I certainly felt actually that this would be normal business as it were actually that if a GAC member feel strongly enough

to express a concern directly to the ICANN board that as a courtesy, actually that the board would consider the concerns expressed to it and explain how it will address them.

Now, that could be to the extent that they've considered them and they've decided not to address them. The GAC is an advisory committee after all actually, so it was intended just to be a very open ended kind of non-threatening provision actually (which is) just for the record, of course, if somebody has a concern we'd expect the ICANN board to take them seriously.

Avri Doria: Can I ask a question about this? This is Avri.

Man: Avri, yes, go ahead.

Avri Doria: Okay yeah. I guess what I'm trying to differentiate on this is I can read it in one of two ways.

One is when an individual GAC member brings up an issue to the board, the board should, A, consider it as it does politely any other entity issue whether it some corporation had an - a problem, some NGOs, some individuals what have you, or are you saying that when a GAC member brings up an issue, it should be considered in the same way that a GAC issue, a consensus issue from the GAC would be considered and given that level of, you know, rigid process.

Man: Well the GAC does operate generally on consensus actually, but the operating principles don't require it to and we could give the GAC advice which says...

Avri Doria: Okay, sorry then...

Man: ...on this application most people don't care actually, but one country is for a particular concern and that will constitute GAC advice. And the bylaws would require actually that the board explain to the GAC if they intend not taking that advise on board.

So I don't think that the difference in substance actually is that much, but it does more explicitly provides or it recognizes that we think it's important to individual governments if they feel strongly about something, which where those concerns aren't shared by the government actually that they should have a reasonable expectation that the ICANN board will respond to them in a constructive way.

And that's all this was intended to say really and it was really intended to avoid having anymore details - the procedural steps defined in these principles about how we might do that and how many days we might allow and who should be able to do it and blah-blah-blah.

It was just intended to hopefully state something that should be taken for granted anyway, the common sense that I think (Bill Graham) said too earlier on and that's (unintelligible) I mean that was the intention behind this. It was really quite innocent.

((Crosstalk))

Avri Doria: And I guess, I'm still not clear but thank you.

Man: Okay. (Bill), (unintelligible) and this is on to final principle 3.4, which I think in (unintelligible) bit lines elegantly summarizes what ICANN is all about. I think no issues there.

I'm going to wrap up the call in a couple of minutes, perhaps before we do it, be useful just to share between the GNSO and GAC and vice versa the sort of process going forward now.

(Liz), could you just give a (sort of effect) on the (cancellation) of where we are on the process, how we're factoring this into it and...

((Crosstalk))

Man: ...where we go between now and the next meeting?

(Liz Williams): Sorry (unintelligible) I was coming off mute and it always gets a bit dead.

Yes, thank you very much everybody. Glen, I'm assuming that this is roll call somewhere that we did at the beginning of the call. So I (noticed)...

Woman: Yes.

(Liz Williams): ...on the call, thank you.

The general drafting timetable for the group assumes that the remaining working group, the Reserved Names Working group with Chuck is sharing and be protecting the rights of other working group

which Kristina Rosette is sharing will complete their work in the next month or so.

The 20th of April, this month which is on Friday, there's a cutoff for edits on the existing report. The ongoing conference call schedule which is fairly heavy (beats) for the next couple of weeks, and I believe the working groups to complete their work and to provide inputs into the main body of the report.

That also includes the IDN inputs that had been done by the IDN working group, which was completed in Lisbon. I would expect that the committee will have new TLDs final report. It'll be the final, final, final version on approximately the 10th of May, I would expect that that draft will not yet incorporate those final working group inputs.

We're due to have those incorporated by the 31st of May, and we're hoping to have it posted very much at the beginning of June to give the community and the board ample time to consider the committee's work which should be completed by then.

And then I would expect that at Puerto Rico the consultations will wrap up. I don't know and Bruce and I have been talking about this in the background whether it's possible to finalize the board report between now and the Puerto Rico meeting, but the GNSO council will certainly - the committee will certainly complete its work between now and Puerto Rico.

Imagine practically that we will take into account any final consultations in Puerto Rico, and then I'll produce the board report shortly after because that will include an implementation plan. It will include a draft

based contract which is why I was interested to him more (input) on those things that applicants (unintelligible) to do because that becomes contractor conditions.

And we'll also be producing a draft request for proposal for applicants which is quite a great body of work to do with the implementation team and ready to (unintelligible) responsible.

So that's the general wrap-up and sorry, (unintelligible) outside the windows, sorry. I'm hoping to stick to that fairly closely to that time frame, but it's very, very tight, which is nothing surprising.

I'm happy to take any questions if anyone wants to ask me anything about that.

Philip Sheppard: (Unintelligible) thanks very much.

And, (Bill), from your side, what are your points in terms of - any further proactive work or reactive work that you'll be doing?

(Bill): Well you catch me a bit cold on that one issue, Philip, because that'll be decision for the chairman and the working group convene, and I think we we're so exhausted and delighted with ourselves having adopted the principles in Lisbon that we didn't actually discuss the next steps there.

So that still something under review, but I think it's clear that there are - we do need to perhaps discuss the questions that we received actually from GNSO members and (give up) GAC members who aren't on this call actually the opportunity to provide some reactions and to decide if

we do want to take additional steps but, you know, I'm speaking very much beyond my mandate describe there actually but we just literally to my knowledge haven't discussed yet what our next steps might be.

Chuck Gomes: Chuck.

Okay, I think (unintelligible) perhaps what we'll try to do is to pull out from the questions using (unintelligible) already and discuss on this call maybe more answerable questions if you like that will be useful to look at.

And again I think this is just part of where the exchanging idea information in terms of intent while I was looking for the (unintelligible) but that will certainly help I think us in a way that we're looking at the implementation of some of these issues and indeed of other things that are put (unintelligible) so we will try and do that for you to make your life much easier in terms of the specifics of what (then) maybe to look out.

And on that note I think I'll close the call and say thank you very much members of the GAC. Thank you very much members of the GNSO.

Man: Thank you.

Man: I think it was a very useful exchange indeed, and I wish you all remains of a - of what is said a delightful day in the tropic here in Brussels.

And if you have a good time, it would have a time zone as you are (unintelligible) thank you very much everybody.

Woman: (Okay).

Man: Thank you very much.

Woman: Bye-bye.

Man: Bye.

Woman: (Bye).

END