REPORT FROM THE PRAGUE MEETING.

- **New gTLD Objection & Dispute Resolution**

This session provided an insight on the objection process for new gTLDs, Dispute Resolution service providers (ICC, WIPO, ICDR) and the process Itself.

The panel consisted of questions and answers after the presentation of each of the representatives where they explained the process in their organization.

ICDR: International Center of Dispute Resolution based in NY. It works with international disputes resolutions. The whole process is done electronically (it is safe, own software). Requires pre-registration. Payments are processed online and the documents are uploaded to the platform. The cases are based on documents, no personal hearings (videoconferences). Objections can be raised at any time. It is important if it is made in several strings. The speaker explains how to use the platform. www.icdr.com/icann Everything is done in English. Costs: $ 2,750 fees when there are any objection and can be paid by credit card. There may be additional fees if you need an expert engaged. Objection period: 7 months. Controversy Date: 30 days after the closing of the objection petition. They prefer the parties to negotiate between themselves and not to hire judges. Parties are happier if they can resolve the problem themselves. The objector has the burden of the proof. Take over expert payments. The winner party would be refunded.

WIPO: The procedure is the same but the criteria which govern the process are different. In the legal objection the panel considers whether a trade mark is infringed. Public comment period: 60-day (submission or objection). The objection is a process where government organizations make the objection when a string violates legal standards based on WIPO, the legal basis are the documents signed in 2001. It does not prevent the parties to file legal action if it is more appropriate. The submission period of 7 months is planned for mid-January, 2013 to be ending. In mid-April it would be designated the panel. We are in early stages: submission of objections. The objections are submitted electronically. Hearings by teleconference are made if necessary to reduce costs. The criteria are based on the trademarks protection in Internet according to WIPO. 8 factors of consideration (see guide). Fees: If not paid, the claim is not raised. Payments are made from the beginning. Similar to arbitration cases: $ 10,000. Since presentation or response. Expert: $ 8,000. The prevailing party will be reimbursed. $ 2,000 is for administrative charges. Action Language: English. Proofs must be accompanied by certified translation. It can be asked permission to present evidences that are not in English.

ICC (INTERNATIONAL CHAMBER OF COMMERCE - Paris): All institutions were involved in drafting the dispute resolutions that ICANN established. 80% of cases are

internationals, 20% national. Administrate for specific rules for arbitration and experts. There is an international team of lawyers in charge of the cases. Add extra value to have regionals lawyers who speak your language. Based the cases on 2 grounds of objection: 1) limited public interest: if the application of the gTLD string is contrary to morality or public order recognized in international law – human rights universal declaration, rights against discrimination; 2) Community interest. The Objection must be made by a significant portion of a community to whom the string is defined explicitly or implicitly, it must be a specific person that can make this objection and must be committed to this community. Combined set of rules: Rules established by ICANN for the applicant's guide + specific ICC Rules + Experts Regulations + appendices practice notes and Appendix 3 (procedural costs). These documents supplement and complement the rules of ICANN. Processes are common to all procedures. The timeline is the same for all objections. There has not been raised any objections yet. Since 13th June that it can be raised objections. The forms are available at the ICC website. There is no time extension. There is a consequence if you do not file an answer, the objection prevails. Fees: paid in advance. $ 10,000, the winner would have a refund - administrative costs. Once the Experts have their report they submit it to the institutions and the ICC makes a control on the formality not the substance. The documents are English. Objections may be submitted in the original language, using spreadsheets models. Electronic documents. In certain circumstances, fees may be reimbursed to the prevailing party at the discretion of the center. Establish proper arrangement for both parties. Panel of 3 members: 2 experts and 1 president. There is no limit to file objections. Upon receipt of the folder it is a fast procedure to exclude any frivolous or abusive objection. Example: Many objections for the same reason to the same application by the same objector. Substance is what is going to be considered if it is against the legal right. For Community the panel is of 1 expert. There is not a closed list of experts, mediators or arbitration. It is made an individual search for each case since 80% of their cases are international and they need people with certain characteristics. Experts have 45 days to 30 days to designate them. They began to make an open pool of experts based on national committee's proposals and their own initiative. ICANN rules set the specific criteria for public interest cases: lawyers of international reputation. Costs in Euros: 5,000, per hour 450 euros. Administrative expenses for expert panel of 1: 12,000 euros for 3 experts: 17,000. 40% for the president, 30% for each co-members. There is a reimbursement at the end. The added value of each institution is to have lawyers who will advise the users. If there are no responses they will be derived to other institutions. www.iccexpertise.org

Presentations:

New gTLD Objection and Dispute Resolution
Legal Rights Objections and New Rights Protection Mechanisms under ICANN's New gTLD Program

ICANN's New gTLD Program - String Confusion Objections
ICC Dispute Resolution Services

- **ICANN and the Internet Governance Landscape**

In this session the ICANN community discussed on the development of Internet governance, including enhanced cooperation and the WCIT.

1. **ENHANCED COOPERATION was discussed, that is, the working groups, meetings, deadlines, participants.**

The next IGF meeting will be held from 6th to 9th November in Baku, Azerbaijan. The topic will be Internet Governance for sustainable human, economic and social development. Will be developed into 6 major topics: Internet governance for development, emerging issues, critical internet resources, security, openness and privacy, access and diversity, and finally as we are today and next steps. There are 128 proposals for workshops that are being studied. There will be remote participation, hub, webex.

The IGF will meet its 6th anniversary. From the Tunis Agenda came the Enhanced Cooperation which has several meanings for different governments and multiple stakeholders. Some see it as government control by the UN and others as a form of enhanced cooperation and collaboration. Consultations have been occurring since 2005. Before advancing it has to be made a mapping of the problems that governments are facing: digital divide, challenges. There are already some areas of enhanced cooperation. This is changing as it evolves the Information Society. Eg OECD with the creation of ITAC, UNESCO signed a MOU with ICANN on multilingualism and the introduction of IDN, the EU has several projects.

Several states proposed to treat enhanced cooperation at an intergovernmental body of multiple stakeholders in the UN. The results of the IGF meeting are not well organized to say that there is progress on issues of enhanced cooperation and critical resources. There are proposals to create a working group to define enhanced cooperation. Some think that enhanced cooperation is how to make ICANN to become an intergovernmental organization and not a multi-stakeholder one. Identify specific examples of processes that are relevant to Internet governance, make mapping of the enhanced cooperation mechanisms and measure progress. Cooperation and discussion are purely political. 1. Use relevant environments to discuss an approach based on evidence. 2. Ask the relevant organization of multiple stakeholders to identify gaps and improvement processes including ICANN debate. 3. Establish systematic ways of recording contributions and discussions. Leads to a better position to discuss this issue rather than treating it as a threat.

The WSIS recognized that the internet works fine. The problem that it is facing now is that there is not a shared understanding about what is meant by enhanced cooperation. There is no need for any kind of organization or process. Enhanced cooperation means the application of the best principle for the IG: openness, clarity, transparency and inclusion of stakeholders. If it is considered as a whole it is spoken of enhanced cooperation.

Enhanced cooperation in the Tunis Agenda was a way to calm down some governments over the internet control by any government and convince them of the need for IGF without making recommendations and rulings. The forum objective was cooperation. For civil society enhanced cooperation does not bother but for WSIS shows that you can achieve consensus. Civil society does not want a controlled internet but a governmental structure. There is agreement on the creation of a multi-stakeholder group which is expected to define what is expected from enhanced cooperation.

You cannot decouple enhanced cooperation from the IGF. This is what was adopted by the States. There is no political will on the part of States. ICANN must show that the multi-stakeholder model does works.

In Geneva was agreed that focusing on a definition does not help to solve specific challenges identified by governments and stakeholders. It is needed a common understanding of the real concerns. Get to see the gaps where the concerns of people are. It is critical that all stakeholders generate more consciences about what is at stake in the UN General Assembly, it is important to transmit this to the missions in New York.

There must be an agreement on collective action.

2. **WCIT World Conference on Telecommunications Regulation with the support of the ITU. Meetings + 200 gov. The documents are made public. Renegotiation of 1985 treaty. What is proposed: getting rid of the surveys, all telecommunications entities may be subject to the treaty. Change the definition to include internet telecommunications.**

The treaty consists of 19 pages of very high standard. Entered into force in 1990 and was ratified by 17 countries. ITU summarized the changes in these titles: human rights to have access to communication, under the protection of critical natural resources, international frameworks, collection and accounting, tax, interconnection and interoperability, service quality and use of ICTs. It covers everything: use of mobile technologies, tax matters and critical issues. The ITU is a member-driven organization:

Member States. The consensus of its members is what counts and not the various actors. In 1988 it was a document of 10 high-level articles that talked about things and how to ensure telecommunications availability in case of an emergency. Now there is a labyrinth in how networks work, security is administered and there is no agreement. Those who are not members will have restricted access to each document. We performed extensive work in social media for ITU to publish the documents. The UN Secretary said: "The ITU Council must authorize the release of the documents. The document is a TD64 temporary document. Make an open consultation on the ITRs. Participation in social media has had an impact.

Documents: Board Working Group on the temporary document 62 and revised version 2, build with draft proposals, of 270 pages which are hard to read. The current ITRs are available free online. There are proposals of all States Member over the last 2 years. The other document is the temporary document 64 from the Board working group, revised version Nº2. ITRs Revised Draft of 83 pages. There will be a meeting in October and then in December, because a treaty has to be signed.

ICC wrote a paper on the issues that will arise on the WCIT. It is available on the website.

The ITRs must contain high-level policy principles and not just technical. Now it is required a rapid expansion of services and technologies, new Internet providers, new challenges. The liberalization model provides unprecedented benefits. It is reasonable to argue that there is more competition and it is appropriate to modernize the ITRs, to change attitudes and reduce others. Improve international cooperation. Points about technologies are not appropriate for a treated and can be harmful to the market.

The treaty has not changed since 1985. The negotiations led to the substantial liberalization of the treaty. There were agreements outside the framework of this treaty on the added value. Many countries lost revenue and in many cases the government lost control in new services provision. The process that started many years ago reflects the dissatisfaction of the parties. Those who have lost money want it back. It is a multilateral treaty that gives them greater economic power. The traditional agreements cover private companies in other countries and have special obligations. It is proposed to discard what is already recognized so that all entities are included in the concept of telecommunications and are subject to the treaty. Now it wonders what is covered by the treaty and there we got ICTs that are not included. There were only included the telephone companies. The change includes ICT and refers to any computerized process. There are mysterious Terms as Internet traffic services. It adds other areas or themes, the words fraud, spam, mandatory safety standards for making policies. The ITU wants to create a dispute resolution center and distribution of IPV6. A

proposal from China says that states have responsibility to supervise enterprises using ICTs in their territory. ETNO proposal requires a shift in the ways in which peering and transit are done in the Internet and wants to establish a mechanism for fair revenue sharing so that they can recover their costs. The traditional kind of money involved in governing global telecommunications is at stake, but what's also at stake is the possibility of expanding the concept of telecom to include Internet and then apply all those frameworks into the Internet space.

The worst alternative WCIT is a balkanized Internet. There should be a new definition of Telecommunications / ICT. At www.wcitleaks.org can be found the documents. It does not ensure that documents are authentic. ICANN keeps a low profile in terms of the ITU.

Educate developing countries governments to understand that traditional models will not work for internet. Think of other models. The message does not reach the various governments around the world, representatives of ICT, Foreign Affairs, Economy. Do not ignore the debate. We need to help them. See definition of broadband, multilingual content, security issues, and infrastructure management. Help identify issues that require global attention.

Tips: Remember that the WCIT is composed solely of government contrary to the WSIS. Ensure that your government representatives are aware of the interests of the Internet community.

ICANN participates in the discussion with a forum in the IGF, gTLDs workshop, participating in enhanced cooperation and the regional preparation for the WCIT.

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