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MARRAKECH – GAC Saturday Sessions  
Saturday, March 05, 2016 – 14:00 to 18:00 WET  
ICANN55 | Marrakech, Morocco

CHAIR SCHNEIDER: Welcome, everyone. We are now having this meeting in a place that is not so far away from my home for the first time.

This is the meeting number 55 for ICANN. Some people say that this is a milestone or a historical meeting because of different reasons.

I am your chairman at the GAC. I am from Switzerland. My name is Thomas Schneider, and I'm going to give you the floor so that you can introduce yourselves to get to know you.

Thank you.

UNKNOWN SPEAKER: Hello and good afternoon. And my name is Olof Nordling, ICANN staff in support of the GAC and the resident grandfather. In case you need grandfathering of something. You never know.

MICHELLE SCOTT-TUCKER: Hello. My name is Michelle Scott-Tucker. I'm from the ACIG GAC secretariat. We're here to help.

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*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.*

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TOM DALE: Hello, my name is Tom Dale, I'm also with the GAC secretariat, and as Michelle said, we're here to help.

ARGENTINA: Hello, my name is Olga. I'm the representative of Argentina from the GAC and I am also the vice chair of the GAC.

THAILAND: Good afternoon, my name is Wanawit, and I am the representative from Thailand and also the vice chair of the GAC.

NIUE: Good afternoon, everyone. I am Brumark, representing the government of Niue.

OLOF NORDLING: If I may intervene. I completely forgot to introduce those who are actually doing a lot of the work for the GAC among ICANN staff, and it's Karine Perset, which is over there. Yeah, stand up so they see you.

[ Applause ]

And Julia Charvolen, who is somewhere. Please raise. Yeah!

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[ Applause ]

Now back to the introduction sequence. Sorry for interrupting.

CHAIR SCHNEIDER: Sorry. Before we make the list, I just wanted to announce that you know this. We have, again, a few new members. Since the last meeting we have Burundi, Cambodia, Cayman Island, Haiti, Palestine, and Chad, Republic of Palau. So there's quite a number of new members.

We have one new observer, which is the WATRA, West African Telecommunications Regulatory Assembly. So thank you for your patience. We start over there and go through the lines.

Thank you.

[ Introductions ]

CHAIR SCHNEIDER: The challenge in particular for me to call on you, so I try to note where you sit, which is only valuable as long as you more or less sit where I noted you where you're sitting now. So if possible, I would plea you to sit at the same places, if that's possible, more or less.

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I try to minimize my mistake rate, but it won't be zero mistakes. So forgive me if I take you for somebody else because I don't see exactly or don't recognize you exactly. So my apologies in advance for this.

Thank you very much.

All right. We have an interesting and diverse participation here, which is something that is very positive. And as I said in the beginning, this is a special meeting for several reasons. One is, of course, the fact that we have -- will have our third high-level GAC meeting on Monday where we'll have a number of ministers and other high-level GAC -- governmental representatives who will interact with each other and discuss issues related to ICANN's work and mission. And we also have some substantive elements on our agenda that are fairly important for the future of this organization, but meaning ICANN, but probably also for the future of this committee and of our governments in general. So I hope that we will be able to get through this meeting as smoothly as we can knowing that this will be a huge amount of work, probably, for all of us. And I'm looking forward to moderate this discussion with you in the coming days.

So there are a couple of, I guess, logistical arrangements that I would refer to our secretariat, please. Thank you.

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TOM DALE:

Thank you, Thomas. Good afternoon again, everybody. For those of you returning, welcome to another GAC meeting. A number of you are here for the first time, and I would encourage you to please, if there are any matters on which you are unclear about substance or procedure or if you just wonder what's going on, then we might know. Please ask any of the secretariat staff or ICANN support staff who were introduced to you at the beginning of the session. We will be very glad to help and look forward to your participation. So again, welcome.

As Thomas said, after the tour de table of names of attendees, we have a number of other ways of ensuring that your attendance here is recorded. An attendance sheet here for to you complete will be passed around during the course of the meeting. Please ensure that you complete it with your details, please. And in addition, as we have followed in some recent GAC meetings, we will be asking people to include their business card in a prominent container which my colleague Michelle will now hold up. That container is a bag that will be at the back of the room near where Julia is sitting in that corner just where we're pointing. So during the course of the meeting, not today if you don't want to, but please include your card there so we have some more details for you. And at the end of the meeting, we will draw from the cards the winner of a door prize. The door prize has not yet been selected, but it will be suitably tasteful

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and reflective of our local Moroccan hosts and culture I hope. So please assist us in recording the fact that you are here. It's quite important for our records.

Just to draw your attention to the agenda for the GAC meetings this week which have been circulated about two or three weeks ago, one change I need to bring to your attention concerns the agenda sessions for tomorrow, Sunday. Items 8 and 10 will be swapped for reasons of the availability of some of the presenters so that at 2:30 tomorrow, the delegation for Morocco will speak to us about preparations for the high-level governmental meeting and answer any questions that you may have concerning that meeting, which is to occur on Monday. So that will occur at 2:30. And the session on future new gTLD rounds, policy development, will be at 5:00 tomorrow. So those two sessions, 8 and 10, will be reversed or swapped.

That is all I have to say concerning those administrative matters. The remaining issue which the secretariat needs to draw your attention, as a matter of important procedure, concerns elections for the GAC chair and vice chair, and I'll ask my colleague Michelle to bring you up-to-date on where that process is up to.

Michelle.

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MICHELLE:

Thanks, Tom.

To ensure independence and probity, the ACIG GAC secretariat implements the GAC election process. As stated in the GAC operating principles, the GAC chair is elected for a two-year term, and he may be reelected for a second two-year term. And Thomas Schneider is currently moving towards the end of his first term and is, therefore, eligible for renomination for a second two-year term.

The GAC's advice chairs are elected for a one-year term and may be reelected for a second one-year term. All of the vice chairs are now moving towards the end of their second terms, and so none are available for reelection.

If you are interested in becoming part of the leadership team, and I hope you are, then the election timeline is important to note.

ACIG will formally call for nominations during the next GAC meeting in June 2016, and those nominations will close in mid-September. If an election needs to be held because there are more nominations than there are places available, ACIG will hold that election during the end-of-year meeting this year in October-November 2016. I'm telling you this now because if you need to obtain permission from your administration at home, permission within your own agency, you should probably do

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that between this meeting and the next. And if you're undecided about whether or not to nominate for a position, during the breaks, please speak to the chair or any of the vice chairs because any one of them would be very happy to talk to you about the role and what it entails. And of course you can always come and speak to us at the ACIG GAC secretariat as well.

The leadership team meets every two weeks via teleconference, and you don't have to be any sort of in-depth ICANN expert to make a useful contribution to the team. You just have to be keen to get involved.

And you'll definitely have support. The team is very collegiate in the way it works. You'll also have support from the ICANN support staff and the ACIG GAC secretariat as well.

So please do think about nominating for the leadership team when the call goes out at the next GAC meeting in June 2016.

Thank you.

TOM DALE:

Thank you, Michelle. If I can just provide an additional update to the agenda that you have. It was drawn to my attention that the meeting with the ccNSO at this point is not to proceed as the ccNSO has some other commitments, as do a number of groups in ICANN this week. So we'll provide you with an update on that



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later. But at this stage, the ccNSO meeting is not occurring with the GAC this week.

Thank you, Thomas.

CHAIR SCHNEIDER:

Thank you. And thank you also for noting timely the procedures for elections and reelections of the GAC leadership team because as Michelle said, this needs to be thought through and prepared.

Before we go to the next session, the schedule that we have so far has been work in progress. And, as you can see, there's still some changes. This is mainly due to the amount of work that people have been planning that they will take for discussing and agreeing, hopefully, agreeing on the accountability proposal that we have on the table.

And we have been trying to do our best to allocate the time that we anticipate is needed for that discussion, although, of course, nobody knows. So, apparently, the ccNSO has realized that they may need more time and is reshuffling their schedule as well.

We may need to do this as well, if necessary. We already have had situations before. That will depend on how this discussion goes. So this is something that I wanted to flag to you. And -- so

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any questions on the agenda or on any basic issues related to our meeting? Or comments? Yes, Australia.

AUSTRALIA: Thank you, Chair. I'd just like to make a suggestion. Seeing we're not meeting with the ccNSO, would it be possible to hold the working group meetings in that time instead of during the lunch breaks?

CHAIR SCHNEIDER: Thank you for that suggestion. And we are aware of the clashes of some of the working group meetings. Let me turn to the -- because -- I have no problem. The question is, because other people have been invited to these meetings, the organizers of the working group would have to check whether these other people would be able to come in, too. Which are the working groups you'd prefer to have during this -- it's a one hour slot or two half hour slots. Or we can maybe just ask those who organize working group meetings to see who of you will be willing to fill that slot.

On the other hand, we may, depending on how the discussion goes, use it for the accountability discussion. That is something else. But maybe we don't have to take a decision now. But let's

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think about how we make best use of that slot. Maybe we know more later today.

Yes. Olga, please.

OLGA CAVALLI: Thank you, Chair. Just for clarification, this slot number 17 is the one that could be available? Is that correct?

CHAIR SCHNEIDER: My number is 13, but maybe I have a different version.

OLGA CAVALLI: Tuesday morning? It's Tuesday morning from 11:00 to 11:30. So it's half an hour. It's a one-hour complete. So okay. Just so we know. Yeah, the working groups are meeting outside this room. So maybe we can come back to you later today. Okay? Thank you.

CHAIR SCHNEIDER: Yeah. Thank you, Australia.

Other comments? Yes, Iran.

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IRAN: Thank you, Chairman. This morning ALAC has its first meeting relating to the analysis of the CCWG. They foresaw before to have 16 hours of discussions. Now they are limited to 7 hours. Other constituencies might have the same thing. Is it possible, just asking the possibility, that we have an extract of the time frame that these constituencies are discussed in CCWG in order to make it available for some of us to be present in order to follow the discussion which would facilitate the continuation of the work? Is there such possibility available or not? Thank you.

CHAIR SCHNEIDER: Thank you. So your question is whether we would be able to obtain the agendas and schedules of the other SOs and ACs to see when they will be discussing the transition?

Olof, could you help us with --

OLOF NORDLING: Okay. I'll follow up on that and make sure that you're informed about it. Thank you.

CHAIR SCHNEIDER: Okay. Thank you. Further questions or comments?

By the way, we have, actually, two more vice chairs, as you probably have realized that are not yet sitting on the table. One

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is arriving. Hello, Gema. Give her a minute of time to sit down and install herself. The other one is Henri Kassen from Namibia won't be with us today. He'll arrive tomorrow. Then we'll be complete.

If there are no more questions or comments on the agenda or the like, then I think we should not lose time and go to agenda item 2, which is the start of our discussion on the IANA transition and the ICANN accountability process and the result of that process as we have it in front of us since a few days.

We've discussed the part of the IANA transition before. We have also had an intense work stream on that part. And we have given our consent to that process moving forward under the condition that we will assess it in the end together with the result of the accountability work. Because these two work streams or these two processes are linked.

And, fortunately, we have our dear friend, Kavouss from Iran, who has been following these processes closely and who is one of the members of the GAC of the ICG, the coordination group that is coordinating the CWG, the IANA transition part. And he's also been very actively participating in the accountability part.

And, to give us a quick wrapup of where we are with the IANA transition and how that relates to the accountability and why we need to in the end still look at this as a package, I would like to

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quickly give the floor to Kavouss to help us, particularly those who haven't been able to follow these processes in detail, to quickly bring us up to date on where we are and what are the next steps to be done with regard to the part of the -- related to the IANA transition. Thank you, Kavouss.

KAVOUSS ARASTEH:

Thank you, Thomas. I, with four other GAC colleagues, we collectively participate in the ICG. Manal and others, including yourself. The briefing -- I don't think that there is a need to go to any detail. We have already given consent about the things. We're waiting for the ICG final reports.

The ICG sent a letter to CWG, the cross-community working group in charge of the naming activities and asked the CWG whether the final report of the CCWG fully meets the requirements of CWG. And the letter was replied positively saying that, yes, the accountability as contained in the report of the CCWG 19th of February fully meets the requirement of CWG. That means naming community.

To that sense, the ICG had the last call last week. And they have decided to prepare a draft letter to be sent to NTIA, to ICANN, indicating that this is the final report of ICG IANA transition coordination group. However, that letter is currently in

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abeyance waiting for the results of the six chartering organizations to the report of the CCWG.

Once this reply is available, very probably on 10th of March, the chair of the ICG has been given the authority to send that letter to NTIA, to the ICANN. As you know, the ICANN was requested not to modify the report of the ICG or the proposal of the ICG. However, if ICANN board has any comment, could separately put this comment to that. So the report of ICG is finalized and just waiting for the six chartering organizations, which we all hope that the chartering organizations would positively reply to that. And I thank you very much.

However, if any colleagues, particularly those newcomers. has any question with regard to the activities of ICG, myself, Manal, and others are available to provide information for them outside the meeting offline. Thank you.

CHAIR SCHNEIDER:

Thank you very much, Kavouss. And maybe a fundamental thing. CWG means cross-community working group, and CCWG also means cross-community working group, or cross-consistency working group. But the CWG is -- whenever you hear that abbreviation, this is related to the rather technical mechanism of the IANA transition of the function. And the CCWG, the one with the double C, when this is mentioned, this

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relates to the accountability work, so to the process that is trying to work out proposal for enhancing ICANN's accountability. So CWG is related to the IANA transition proposal, how to translate the IANA function. And CCWG is related to accountability. I think that's something that everybody needs to know. Otherwise, nobody will understand what we are talking about.

Okay. Thank you very much, Kavouss.

Any questions or remarks on this part so far? If that is not the case, then we are -- oh, Indonesia.

INDONESIA:

Yes. If Kavouss can extend his explanation a bit. Because, hopefully, next week we will -- the proposal will be passed to the U.S. government. And what will be -- what will happen in the -- after the -- what you call it? The proposal is passed to the U.S. government, what will happen in the U.S. government if they agree or if they are not agree. And after that, what will happen after that? Shall we set up the new ICANN or completely new organizations? Thank you.

CHAIR SCHNEIDER:

Thank you, Indonesia. If you want, Kavouss. Otherwise, we had two members of the GAC in that CWG that was working on the



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proposal, which was Elise from Norway and Wanawit from Thailand.

So, Kavouss, you may start. And, if somebody else, in particular the two members want to complement, then you're free to do so. Thank you.

KAVOUSS ARASTEH:

Yes, certainly. I'm in good company. But I think, in reply to my colleague from Indonesia, we should read the announcement of the U.S. government -- next Monday will be almost two years -- that said that intends to transfer the stewardship of IANA, stewardship of IANA naming and the systems from the U.S. government to the multistakeholder global community. And, in that sense, accompanied with the transition was accountability issues that these two will happen together.

So I think that, when U.S. government receives the report of ICG, we will wait to receive the word of CCWG. And that would be also -- presumably be done on 10th of March 2016.

And with those two reports, they will go through that one and analyze the situation and take necessary action as appropriate. So they are connected to each other. The transition is not limited to the IANA transition function. It also should satisfy the accountability measures that either should be in place or should

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be committed to be in place at the time of transition. So these two reports are interconnected to each other, thank you.

CHAIR SCHNEIDER:

Thank you. And maybe, if people have questions on details of that proposal, feel free to bilaterally also engage with colleagues, either with people from the leadership team or with Elise from Norway and Wanawit from Thailand and with Kavouss and others who have participated very closely.

With this, I would like to actually move over to the accountability aspect of this work. And, as you know, we have the three co-chairs have been so kind to come to us, join us for this session. And I think they are the best ones to help us all understand where we are, to give us an overview.

Do we have enough chairs or -- too many chairs who sit on chairs. So -- thank you, Mathieu, for coming. He's one of the co-chairs. The other's -- Thomas is -- okay.

They are wanted all over, because they're forced to give explanations about the proposal in all constituencies. So thank you for coming here.

I won't continue speaking, I will give the floor immediately to you and let you present the proposals, and then we may have --

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use mostly for answering questions from the GAC. Thank you, Mathieu.

MATHIEU WEILL:

Thank you very much, Thomas. I will speak in French. I don't know if the slides are loaded. Small set of slides. Okay. Good.

Thank you for inviting us to participate in this session. I understand that here we need to present the work that we have done as part of the transition process during the work of this week in Marrakech.

As I was telling the other co-chair, Thomas Rickert, who was appointed by the GNSO, he is now attending the GNSO session that is addressing this same topic. The other co-chair appointed by ALAC was just a few minutes ago in this same room. I believe that he was scared to face you, and he left the room because he suddenly disappeared. So, if you happen to see Leon Sanchez, please kindly tell him that he needs to come back. We hope that we can find him quickly. I'm still hoping that he will join us for the rest of this session.

I'm going to go through a set of slides that gives us an idea, in a general way, of the proposals, how they were submitted to the GAC and to all the chartering organizations.

Thank you, Leon, for coming back.

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Can we move on to the next slide, please.

So let me remind you where we are at. Kavouss was very kind to present these. So I'm not going to go into too much detail. The accountability working group has two goals. The first one is to submit improvements for enhancing ICANN's accountability. And the second one is to address the working group's needs regarding the name -- the IANA naming functions. Because there are a number of conditions that need to be met in the proposals that we submit.

On this slide we have a detail of what is required for the transition process. This has to do with the intensity of work that was required for this transition process. Some people are smiling now because we can truly speak about intensity here.

And this effort was widespread, and it was quite well-distributed. But we still have to do something to improve the South American and the South African participation and import in this process.

Kavouss clearly explained the difference between the first part of the work, the Work Stream 1 and Work Stream 2.

The proposals that were submitted to GAC cover those tasks and areas that have to be committed before -- or implemented before completing the transition from the U.S. government.

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The second stream was presented here in this same room in a meeting that we had yesterday. And it has to do with the task and work that we need to start to work -- task that we need to start working on.

And in this area we expect to have the experience and input from GAC regarding diversity and jurisdiction, transparency, and many other topics that are part of our agenda. But that work is not complete yet. We still have a lot of work to do.

I'm going to skip the next slide. There is a summary, a 50-page summary with all the details. So I'm trying to give you here a snapshot. But you can have a very detailed idea of what is in that report. But we don't need to print all those pages. If you can read them from a screen, we will be protecting the environment, and we will be fine.

So this is -- let me move on to the next slide.

This explains some of the comments that we received for the first report. We follow here a chronological order. Considering the IANA name working stream, there was agreement that the conditions established by the U.S. government have been met. That is a very important comment that we received, a very important feedback. Because, as you may recall, this was one of the requirements to move ahead with the transition.

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So since then we know that SSAC adopted the proposal -- approved the proposal. And the ASO approved it yesterday.

So we have two chartering organizations that signed the charter. And two out of six. We have six chartering organizations -- four, GAC, ALAC, ccNSO, and GNSO. And, of course, this is something that we're going to work on throughout the week. Let's move on to the next slide, please.

What we have on this slide are all the recommendations. I'm not going to go one by one. But let me remind you that there are four big blocks within the framework of accountability in the proposal that we are trying to put together for ICANN.

The first one relates to ICANN's mission. It has to be clearly defined. The limitations have to be clearly defined. And it has to incorporate all the elements that are currently in the Affirmation of Commitments.

The second essential element relating to ICANN's accountability is the ability to appeal -- to make an appeal to the decisions. A government may do that. A ccTLD can do that. A professional or trade association can also present an appeal. So -- if this body feels that it's been affected by the decisions being made by ICANN. So there is this element of empowerment of the communities.

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So ICANN should work on the basis of this founding text. This is an essential element.

The third element, the Board, the ICANN board is still at the heart of the daily management and administration of the organization, because this is essential for ICANN to work effectively.

And within the ICANN board there is a structuring element that has given way to many discussions and that is the way that the Board interacts with the GNSO, with the policy-making bodies in the organization or with GAC that submits its advice.

So GAC's recommendations have led to a number of provisions in the bylaws. So this is important because we need to have a clear definition of how the Board takes into consideration GAC's advice and recommendations.

The fourth element that required a lot of input and a lot of work has to do with putting together a community with additional powers, and, in particular, the power of blocking changes to the bylaws, to budgetary decisions or changes, and also the power to repeal or to remove some of the Board members. So these are the four blocks of proposals that are currently included in our report.

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Several documents have been distributed containing the recommendations that explain the key changes according to the third report that was submitted last November.

That was a report that GAC discussed at length because we have two inputs from GAC that were really useful for us to finalize the report.

If we look at the next slide, here we present the latest changes that were resulting from our last discussion. Let's look at the first recommendation, please. Here you see that there are a lot of clarification points. Some additions, too. We have declaration of a new power for the community and the ability to start an investigation on a certain topic when something is not satisfactory. And these are the elements that we wanted to submit to you so that everybody can have a clear understanding of this supplementary report. This is just a brief overview of what we have done. Leon?

LEON SANCHEZ:

Leon Sanchez speaking. Thank you. I'm going to speak in Spanish since I have my friend Olga sitting next to me, so I think it's a good opportunity for me to address to you in Spanish.

All right.



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As Mathieu was telling you, our intention is not to review every single recommendation. Rather, we would like to guide you and to explain to you where we are at now.

As Mathieu has just said, now we have received approval from some of the chartering organizations that joined us in this process. We have the approval from the ASO as well as from the SSAC. And we are still working with the remaining chartering organizations in order to get their support and approval. I would like to move forward with the slides. And I would like to look at the last slide, number 30, where we have our timeline.

This one, right.

We completed the work to submit our final proposal to the chartering organizations and to the advisory committees. And, of course, now we need to start the process that will enable you as chartering organizations to analyze and approve this final proposal.

Our intention, our objective is to get the approvals during this meeting in Marrakech. Ideally, we would like to have the approval for each of the organization -- from each of the organizations before March the 9th so that we can submit this proposal to the Board so that no later than March the 10th the Board can send this proposal to the NTIA. That would be the starting point for the process that would be out of our control, a

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process that needs to be handled by the U.S. government. There will be a period of Congressional hearings. These hearings are expected to take place within the next -- the following two weeks from after the Marrakech meeting. So we expect all this period to last for 60-90 days.

This process involves not only the NTIA. It also involves other U.S. government agencies and, of course, the U.S. Congress. Once that process has been completed, between the different institutions and secretariats, we expect to have the final authorizations to proceed to implement this transition.

Obviously, during this period, we are not going to sit and wait for something to happen from the U.S. government. We will also do some work. Yesterday we had a meeting that was highly productive with all the CCWG members. At that meeting we examined the implementation of these proposals that we are submitting as part of our first workstream. And we have already started looking at the tasks that are part of Work Stream 2, because we are already planning for the period in which the transition has already been implemented.

Let's move on to slide 28. Here you can see on this slide the work that is planned for Work Stream 2, the second phase of this process.

We know -- we call this second phase as Work Stream 2.

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And it consists in working on some topics that we believe that are already established so that we can go into further details. We can drill down into them, and we can go ahead and implement them once the transition has taken place.

In Work Stream 1 you may recall that we include all those changes and measures that should be committed or already implemented prior to the transition. And we defined a second phase in which we deal with tasks that do not necessarily have to be completed or are not necessarily related to the transition.

So these are some topics that are committed for discussion in the second phase. Diversity is one of them. There was a lengthy discussion in some of the groups about this topic. We identified this as a concern in the community. Olga has been a promoter, an advocator of diversity. So there is a commitment to deal with this topic and during the Work Stream 2.

Accountability and transparency between and among the different supporting organizations and advisory committees is another topic that will be examined in detail in this second phase.

Accountability and transparency within the staff is also something that has to be reviewed here because we need to consider the review of documentation and access to information

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on the organization. So this is another topic that we're including in Work Stream 2.

Human rights is a topic in which we have made a lot of progress. In our proposal we already have a recommendation to make sure that we have this commitment at the level of the bylaws of ICANN to respect human rights. But we also recognize that there is much more work to be done and to define exactly what is the context in which we discuss human rights as part of the limited mission that ICANN has.

Anyway, we need to work on those details because, as you know, they can be quite controversial. So this is something that we are going to focus on during the second phase.

Jurisdiction is another topic that we have discussed with several government representatives. Mainly Brazil and Argentina and France have been particularly active in this area. So here we are not just going to discuss this topic, but also we are going to analyze the impact of the jurisdictional issues from a transactional, operational, and legal standpoint in all ICANN's operations.

So here we expect to have quite a rich discussion. So this commitment to human rights was reflected in a transitional article of the bylaws. And there we explain how this discussion is to take place in order to take into account all the details.

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Finally, we will review the role of the ombudsman. We expect to have an open review. And this is very important. Because Work Stream 2 should be conducted in such a way that we should replicate the working methodology followed for Work Stream 1. Not in terms of intensity. Don't be scared. But in terms of openness, inclusion, participation, transparency. Because we want to make sure that all the work done in Work Stream 2 is done in an inclusive, pluralistic, democratic, and open manner as we did for the first part of our work.

I think that now we can move on to the Q&A in case you have any questions or concerns, and I give the floor back to the chairman. Thomas.

THOMAS SCHNEIDER: Thank you, Leon. As we have discussed before, and we have made presentations in Spanish and French, so I am going to say to my colleague of German in German, so this is another good year.

THOMAS RICKERT: I don't know whether you would like to move ahead or no.

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CHAIR SCHNEIDER: ...is complete. I will focus on some of the key elements for the GAC of this proposal very soon in more detail, but maybe at this stage, is there other questions from the GAC to the co-chairs on what you've heard on that presentation?

Mexico.

MEXICO: I'm going to speak in Spanish. Thank you very much. This is a procedural question. The second stage, what time frame are you talking about? From when to -- I don't know. The periods you mentioned for the second phase of Work Stream 2. Leon, can you answer, please?

LEON SANCHEZ: We think the second phase, the second stage will take place during 2016. Of course there's some topics, there's some issues that perhaps take longer, but our objective, our goal is to finish with Work Stream 2 this year, 2016.

CHAIR SCHNEIDER: Morocco.

MOROCCO: Thank you very much, Mr. President.

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First of all, I would like -- Mr. Chairman. Sorry.

First of all I would like to thank the co-chairs of the CCWG for their work and for the positive interaction with all organizations, including the GAC.

My question is related to Mexico's cause I've seen the timeline in the PowerPoint, and during the second stage accountability, it will end by the end of 2016, but do you think that this period is realistically real? Because we are going to discuss hot topics.

And I have a second question, in fact, and this is to Leon and perhaps Mathieu. Can we work on diversity? Because I know many people at GAC are giving lots of importance to diversity. So can we have more information in that respect? I mean the work done on diversity and the work ahead.

Thank you very much.

CHAIR SCHNEIDER:

I know that this work is far beyond us and far beyond the three co-chairs, so the whole of the group has been certainly moved and we would like to thank the participation of governments in this group because this has given us legitimacy as well as supplementary capacity.

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With respect to this issue, this is really difficult but I know that governments are used to work with tough things.

With respect to the second phase, I know that the target date for this period, the deadline I may say, is very difficult to achieve. But we would like to have some recommendations for the second half of this year.

We know from our previous work there were recommendations that were substantive. You may find some resistance, some reluctance to them. So there Tom can assume, and (indiscernible) we may have this proposal as soon as possible because one day or another we will have to say that if there is no consensus we would like and we would have to find some other way to move ahead.

So in our group, there are lots of willingness and experience so as to move forward in all these topics. And I know that they are not close. When we talk about diversity or what you call more detail about that, of course, in the look, in the search for diversity and thinking about continuous improvement, this is a long way ahead, a long road to run. So this is delicate topic within the framework of our group because to realize -- or for you to have an idea of our discussions, there have been lots of experts that have said that ICANN may represent the diversity of the various stakeholders, and this is the only solution to know



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that decisions will be made on the basis of a global and public interest, or what we call the public interest commitment. And when we talk about diversity policies, we know that it's very difficult and it's very delicate to implement them, to put them into practice, because there is some reluctance. So we're looking for equality and diversity or are we trying to analyze the various proposals?

Yesterday we talk about the merits to be done in ICANN so as to achieve something with respect to some policies that perhaps highlight some people who have made contributions to these organizations, but we know that this is a very tough discussion. We know the collaboration and the inputs of everybody because it would be very difficult to reach a consensus in that respect.

Personally, I may say that this is something very interesting to me, and we have to move ahead in ICANN.

We have a lot of challenges to be faced. An organization like GAC, for instance, at national and international level, there's lots of experience in this field in that respect.

CHAIR SCHNEIDER: Thank you, Mathieu. The United Kingdom has the floor.

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UNITED KINGDOM:

Leon, Mathieu, Michael for coming to this meeting today to recount the -- what we believe in the U.K. has been a very successful process to prepare a proposal in respect of enhancing accountability relating to the IANA stewardship transition and developing the framework of community empowerment. It's been a lot of work. It's been a lot of challenges. It's been tough going for all the constituencies. And the GAC has, I think, played a very valuable role through its representatives as members and participants in this process.

I just wanted to take the floor, in addition to commending the whole process and navigating its way through a lot of complex issues, I wanted to take the floor just to come in with reference to the question from Morocco with regard to the timeline for Work Stream 2. I think it's important to take into account the factor of the chartering organizations, including the GAC, devoting effort and time to assisting with the implementation of the Work Stream 1 outcomes. And so those should take priority. And we need to sort of plan the work ahead, take account of capacity, both in the committee itself, the Governmental Advisory Committee, but also in national administrations, to assist with that process.

Many of us consult with stakeholders in our national communities, and we have set procedures to put in play.

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So there's a lot of work, as you have been correctly underlining, and I'm just slightly apprehensive that initiating the work on Work Stream 2 and planning it within the current calendar year is quite ambitious. I fully understand, and we heard this and discussed this on Friday in the CCWG meeting, the importance of gathering data and getting a clear sense of the work that's already been done in areas relating to jurisdiction and diversity. That work is very usefully done at this time. But I think we should not lose sight of priorities of the use of the work Stream 1 outcomes.

CHAIR SCHNEIDER: Thank you.

Next I have Switzerland and then Iran.

SWITZERLAND: Thank you, Chair, and thanks to Leon, to Thomas, and to Mathieu for coming today, this afternoon, and thank you all for all of your efforts during these long months and difficult endeavor.

I just wanted to put a question. Perhaps in your presentation you already answered it, but I think it would be useful to know from yourselves what is precisely the kind of answer you're seeking from the chartering organizations now on your Work

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Stream 1 recommendations? And also including what kind of answer you are seeking from -- from the GAC.

So what kind of format of answer you are seeking?

Thank you.

CHAIR SCHNEIDER: Thank you. That's a very important question because we will need to somehow formulate such an answer to the CCWG.

I see, Leon, you would like to respond.

Thank you.

LEON SANCHEZ: Thank you, Thomas. A (indiscernible) could help. No, but joking aside, I think that the simplest and the more concrete response you can provide to the CCWG would be very helpful.

SSAC and ASO have been very concrete and very straightforward in their position. So something along the lines of what other chartering organizations have done would be very, very helpful to us to have a clear view on what your position is on this.

CHAIR SCHNEIDER: Thank you, Leon. Maybe you could be even a little bit more concrete, because there was a discussion on whether or not we

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should give an answer on every recommendation or you would rather have a holistic answer, and -- yeah. What -- what are you aiming at?

Thank you, Thomas.

THOMAS RICKERT:

The response outlined by Leon would certainly be the idea. The easiest way for us to process is getting feedback from the chartering organizations who unanimously say that they like the report on an as-is basis. But since we do know that we are working in a multistakeholder environment and where not everyone likes every recommendation as much as others, you know, this was a process involving sacrifice for all parties, we might need to be a little bit more nuanced in our responses.

And there are different options. Certainly the option that we would dislike most is a rejection or an objection to our whole report.

You can proceed, as you did with the CCWG recommendations, just indicating that you do not object to these being passed on to the U.S. government. That would not establish a roadblock for us proceeding.

The other extreme was the option outlined by Leon, is full approval. The GNSO currently contemplates whether to take

the full report as a basis for a block vote as a package or whether they should go through the recommendations one by one to give an opportunity to councillors representing the component parts of the GNSO to indicate the level of support that they have for the recommendations, because we do know that most of them are fine with most of the recommendations, but they do have concerns with individual recommendations. And, therefore, they want to go on record with the concerns they have. Yet they don't want to establish a roadblock for the transition to move forward.

So I think there are options for the GAC to consider. I think it is perfectly appropriate for the GAC to raise concerns with individual recommendations should there be any. We would certainly, for transparency reasons, pass on what we get from the chartering organizations. But I think a clear signal, a clear testimony that the GAC does not object to the package as such would be welcome.

And if you permit, I would like to say that what we've seen over the last 14 months has been ground-breaking. We've been talking about early engagement with the GAC for many, many years now. What we see in the CCWG has been unprecedented. There are so many faces, looking around the room, of individuals that have actively contributed to the CCWG. That's great. The same goes for the other ICANN communities.

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And to see a group as diverse as the CCWG coming up with a report that not everyone might fully like, but which is consistent and which is a cohesive document that will surely take ICANN's accountability to the next level. Is it perfect? Surely not. Is it much better than what we have? Surely yes. And I think it would add to the legitimacy of the proposal if the chartering organizations came together, put some of the concerns aside and say yes to the package, recognizing that there are concerns with some of the individual recommendations.

CHAIR SCHNEIDER: Thank you, Thomas.

Iran, please.

IRAN: Thank you, Chairman. I think my distinguished colleague, Jorge from Switzerland, raised somehow tricky, positive questions.

We should consider the situation as far as government are concerned. Since 1998, the beginning of the ICANN, government talking that it should be a shared governance of the issue. And now is the time.

So my personal view, my personal view, would be our reply should be concise, precise, and positive. We have to discuss

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that, but perhaps would be difficult to go to the very detailed recommendation by recommendations. Very difficult, and may not help the NTIA to decide.

It doesn't mean that we don't discuss the recommendation. We discuss recommendation. We express if there is any concerns. But if any replay should be given, either should be in a way that neutral, that government have considered this proposal and has no objection to be passed to NTIA, or we may say we support that, or some other. But for the time being, we have to discuss them one by one to see.

But the issue would be we should give a positive signal to the outside. GAC should not be seen that someone that oppose to the transitions. It is something that the government wants from the very beginning.

We have you complained for years and years. Why only one single government controlling everything? And now that government giving to us. If we reject that, that means we wish that you continue as usual.

So that is situation. We should be positive, and we should be constructive and we should be concise and precise.

Thank you.



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CHAIR SCHNEIDER: Thank you, Iran.

Well, we have half an hour more to go in this session, and I think it would be useful to focus on some of the key aspects of recommendations as long as we have the co-chairs here.

As you know, we have had a phone call, phone conference earlier this week, on Monday night my time, where we went through -- with those participating on that call, we went through all the 12 recommendations to see where GAC members had concerns or problems, and most of the recommendations were -- there were no concerns raised. There are two -- there is one that we know because it is on the record for quite a long time that we have differences in views, which is recommendation 11, which is about the Stress Test 18, for those who are familiar with that term. And the other one is -- in particular, is recommendation 2, which displays the model of this empowered community structure. And one of the key issues for the GAC where we have some divergence of views is -- that have been expressed in the past is the role of governments -- the scope of the role of governments that we would like to see the governments to exercise in that model. And maybe it would be helpful, just to also help everybody understand what that part of the proposal means, to give the floor to the co-chairs to explain, because I think it's them who drafted this thing, so they are the best ones to explain how the proposal -- how this model will

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work, how this empowerment community mechanism will work according to the proposal that we are supposed to give of (indiscernible).

So I don't know who will take that very important task.

So, Thomas.

THOMAS RICKERT:

Thanks very much, Thomas. I tried to be brief. And, should you have questions, we can always go to more detail. But recommendation number 2 deals with the empowered community. That's the core piece of our proposal. When we started this work, our task was to what's been called the backstop function of the U.S. government, to replace this U.S. government backstop function with the community proposal. And, therefore, the idea was to take this authority, this power that was with the U.S. government and hand it to whom?

And our answer to that question was we give it to the ICANN community, to the global stakeholder community, that, in our case, consists of seven component parts. Those are the SOs and ACs as you know them in the ICANN community.

So these form the empowered community. And, when it comes to the finite list of community powers in our report on fundamental bylaws, standard bylaws, board recall, budget,

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strategic plan, and operating plan, the empowered community can chime in. So we will embed the enumerated community powers in the bylaws.

And then the question is: How are these community powers being exercised? And that's where the empowered community comes in to play.

And, since we don't want to pull out the sledgehammer on minor issues all the time where the issues with board decisions, we've come up with what we call the EEE approach. And the EEE approach is engagement, escalation, and enforcement. And engagement is key. So we follow the philosophy that the more engagement there is between the community and the Board, before the Board passes a resolution, let's say, on the budget, the less the risk that there is friction between the community and the Board. But then -- and, therefore, we made these escalation procedures mandatory.

Just to be clear, the Board has done that on a voluntary basis today to engage with the community on all sorts of things. But we've made that mandatory. It's going to be put into the bylaws.

But the question is what happens if the community or parts of the community think that the Board has not honored the community's wishes and passed a resolution, again, let's say, on

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the budget that the community thinks is not appropriate? Then an escalation path can be started. And that involves various steps where a different number of SO and ACs need to come together and say, yes, we want to move on with the escalation. And there mustn't be more than one objection to exercise the community power. So we walk through the escalation path.

And, at the end of the escalation path, that includes something which we call the community forum where the community comes together and has an opportunity to express all the views, all the pros and the cons. Then the SOs and ACs go back to their respective groups, discuss this internally. And then we see whether there is consensus on exercising a community power.

So that's it in brief. So, at the end of the day, we're looking at whether there's sufficient traction, whether there is consensus, whether we've qualified the consensus requiring a certain level of support and the absence of more than one objection on exercising community powers. And that's where all the constituent parts of the community, of the empowered community can be part of, until they tell us otherwise. And we've seen SSAC and RSSAC getting back to our group saying, well, we do not want to be decisional participants of the empowered community because they feel that their independence might be impaired if they are seen to be taking it -

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- or being part of a decision on budget and other things that are not related to their core mandate.

But, other than that, we have in our report a very inclusive approach whereby all the remaining five SOs and ACs are decisional participants. And they can come to the table. They can be part of the deliberations. And they can also express their view when it comes to whether to exercise the community power or not. This power, just to be perfectly clear, is given to the GAC as well as to other groups. At the moment the approval, i.e., whether the groups want to be in or not, is outstanding from, basically, everyone in formal terms.

And there is the possibility for each group to choose whether they want to be part of the discussions during the escalation process and whether they want to cast their vote, if you wish -- although it's not a voting pattern -- in the affirmative, i.e., favor the exercising of a community power, whether they want to object or whether they want to abstain.

So there's no requirement for the component parts of the empowered community to be forced to be in each and every decision. We can't require that from any of the group. But the door is wide open. We treat all the stakeholders that have not opted out of the scheme, we've invited them to be part of that. And that certainly -- that's not to single out the GAC. But, just

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because the GAC is my target audience today, that goes for the GAC as well. So we invite the GAC to be part of this empowered community, be part of exercising the community powers. But, again, there is no requirement to say yes, we're going to chime in on each and every of the decisions that might be taken so that can be done on a case-by-case basis. So I hope that is sufficiently addressing the issue. I tried to limit it to those points that I think are being discussed in the GAC the most.

CHAIR SCHNEIDER: Thank you, Thomas. There's just one thing I'd like you to add. There's this new element that's been introduced since the third draft report, which is this notion of the carve-out of the GAC. So say a few words on this, how this would work so everybody understands what we're talking about. Thank you.

THOMAS RICKERT: Sure. Thank you. As you know, the GAC has one instrument at its fingertips; and that is issuing GAC advice to the Board. And, during our deliberations on the report, we discussed the question how the empowered community should work in cases where the empowered community is objecting to a decision taken by the board that is based on GAC advice.

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And, for that particular instance, the GAC will be removed from the decisional participant group. So on all board decisions that are not based on GAC advice, the GAC can be a decisional participant. Where the GAC has issued advice, it is removed from the decision-making scheme. That was to prevent the GAC from being able to influence the process at two levels.

CHAIR SCHNEIDER: Thank you very much. I see France, Indonesia, and U.K. Thank you.

FRANCE: France speaking. Thank you, co-chair, for the presentation. I have a question. Why hasn't this been presented to GAC? The IRP is based on the board. Why is the carve-out only applicable to GAC and not to the other bodies?

MATHIEU WEILL: Mathieu Weill speaking. I'll do it in French. The answer is simple. GAC has the ability to engage in a number of issues that have an impact from the point of view of public policy, regardless of the process through which these issues have been raised. And that specific characteristic is what was perceived in that group and what led to this provision.

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This provision is only applicable in very rare cases, because the number of conditions that need to be met in order to get to this stage is quite big. So we need a decision from the Board made after the GAC's. Recommendation that decision has to be challenged by the community as a whole. And we have seen that we have high levels of consensus within the community. We also have to go through an IRP. So there are many steps that need to be fulfilled in order to get to this level., to this stage.

I think that we are just finalizing the details to have this kind of device. We can discuss the accuracy, but the impact will be quite low.

FRANCE:

Thank you, Mathieu. You said this will be used for really rare cases. So in that case we need to have a detailed explanation of all the conditions that need to be there so that we can avoid this problem of imbalance that may lead to questioning the entire multistakeholder model.

MATHIEU WEILL:

Mathieu Weill speaking.

I believe that the rationale has been presented by Thomas. I'm trying to remind you of this. The GAC's power to make a recommendation is specific to GAC. But now we are in a



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discussion that -- in which we need to get an agreement from all parts of the community. So we still see that this role has to be perceived as a specific role. That is the perception in many parts of the ICANN community. I'm not saying this is good or bad. I'm saying that this is the reality of negotiations right now.

I'm not going to teach you about this. But now we are finalizing the details.

And perceptions count. Even if there is some symbolic perception there, when we complete the transition, I don't think that we need to attach more importance than what it deserves.

Its usefulness lies in the fact that it can help us address a specific situation. And we can get to the end of this discussion phase with this underlying topic that is always in the hands of governments. Many proposals have been made to get governments to sit around the table of the ICANN community. The discussions between the GNSO and GAC in particular are still quite difficult.

This is part of ICANN's reality. Not all problems can be solved. But it is clear that this is part of what we need to address in the future so that we can work together without having the need to take on any symbolic measures.

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CHAIR SCHNEIDER: Indonesia has the floor.

THOMAS RICKERT: I would just like to add two or three quick points. I think the GAC should be cognizant of its special role in the ICANN environment. There is no other group that has the power of issuing advice and thereby demanding the negotiation process between the Board and the GAC in case the Board plans to reject the GAC advice.

I think that's what makes the GAC's role unique, right? At the same time, if you look at the post-transition environment in ICANN, the GAC has the -- another unique opportunity. And that is either to issue advice or not. Should the GAC have an interest in preserving the opportunity to be a decisional participant on each and every matter that might come in front of the empowered community, it could be conservative with issuing GAC advice. And where board decisions are not based on GAC advice, the GAC can be a decisional participant. So it is a choice for the GAC to make to either issue advice and sort of risk that it might be removed as a decisional participant from an individual item, or not to issue the advice and reserve the right to chime in when it comes to decisions.

Having said that, I explained to you earlier -- and you can look at the graphic in the report which is quite nicely displaying the

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escalation path -- the GAC will only be included from the very last part of the escalation path.

The GAC can't have discussions all the way through the escalation. It can be part of the community forum.

As Mark has asked in a clarifying question earlier, the GAC is free to issue advice to the empowered community at any time. And I'm quite sure that the voice of the GAC will be heard. And, therefore, I guess we shouldn't underestimate the voice of the GAC in these community deliberations even in cases where what we call the carve-out would be applicable.

CHAIR SCHNEIDER: Thank you. Indonesia.

INDONESIA: Thank you, Thomas, of course. And thank you to all the co-chairs for their nice presentations. My question for the presentation is still related to my first question, the previous question.

Given the fact that the NTIA has extended the contract to ICANN for one year and the possibility for another two years, I want to know whether in the proposal there is a time frame for the NTIA for the transfer?

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Question number two is about the bylaws. Because until now the fact is that the location of the ICANN is in California and perhaps it is also related to the jurisdiction that was mentioned previously in the presentations. Thus, all the bylaws have to follow in line with the Californian legal system. Thank you.

LEON SANCHEZ:

Leon Sanchez speaking. Thank you. I'm going to reply in Spanish.

As regards the expiration date for the contract, the IANA functions originally should be due on September 30th of this year. If everything works out as expected, the transition will take place and we will have no need to renew that contract.

In case these times or this time frame cannot be met, the NTIA can extend the contract for a period of one more year. We expect not to have that need. We expect to be able to go ahead with a transition before the contract becomes due.

Anyway, if we cannot meet these deadlines, then it is our understanding that the NTIA could extend the contract.

Please repeat the second question?

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INDONESIA: It's located in California. And. Thus. All the bylaws or proposal for the bylaws has to be in line and following -- and follow all Californian legal system. Thank you.

LEON SANCHEZ: Thank you, Indonesia, for that question. This is a topic that will be widely discussed in Work Stream 2 because we are going to focus precisely on jurisdiction. That is how we have defined it in our final proposal. And, as I was explaining, there are different aspects that we need to focus on in relation to jurisdiction.

Namely, the seat of the organization, but another important aspect is the jurisdiction for any controversies or disputes that may happen with contracts. This is quite a complex issue, and it will require a lot of work and input from all of us willing to participate in that, but I would like to have some results here and to make sure that we can get to the detail part when we get to that Work Stream 2.

THOMAS RICKERT: Leon elaborately or eloquently explained what we have to do or what's going to be discussed particularly when it comes to Work Stream 2 on jurisdiction. So that is, in fact, something we're going to look into more.

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What I would to add is that we have not looked at California not-for-profit law and tried to use what's in there to frame our accountability proposals, but we developed a set of requirements to enhance ICANN's accountability. And then we've tasked our lawyers to make that work. And there was not a single point in our recommendation that could not be made possible under California law.

So we have not seen California not-for-profit law being an obstacle to implementing all the accountability features that the ICANN community has told us to put into our report.

CHAIR SCHNEIDER: Thank you.

I have U.K. on the list.

UNITED KINGDOM: Yes, thank you, Chair. And I just want to make two points at this time. The first one has largely been covered, actually, with regard to the carve-out, which was a very difficult thing for any GAC representative to swallow, the notion of being singled out, if you like, in a very important process at the end of the escalation path for the petition for take action against the Board. It's very difficult.

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But I -- as you made clear, Thomas, I made clear from the start that this should not mean exclusion; that GAC should be there at every stage of every petition going through the escalation path, even when a carve-out might kick in, because it concerns a Board decision based on implementing GAC advice.

We would still be there. We would be there in a process through providing advice. And this would -- would not be just a one-chance opportunity. If we'd have been there right at the start of the petition, at the genesis of the petition, we'd be alert to it and we would be taking part in the community forum discussions and generally sort of interacting with the whole community throughout. It's not like we're suddenly faced with, ah, this decision is going to be taken without involving us. So that was clear.

And I also sought clarity in the CCWG for commitment that this process for providing advice be clearly defined so it was predictable with the key elements recorded, GAC advice invited, GAC advice submitted, GAC -- the response to that GAC advice sent back to the GAC, and the GAC then commenting on that response. That kind of process should be clearly set out. So it would be transparent and totally, hopefully -- totally clear throughout.

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The other point I just wanted to make was that, you're quite right, we're moving now into an area where the opportunities for friction and confrontation are going to be much reduced, and the consequence of that will be this is an extremely rare, highly unlikely occurrence for a carve-out to kick in. Why do I say that? Well, we have this empowerment mechanism, but also the GAC now is engaging directly with the GNSO as a result of the hard work of the GNSO/GAC consultation group on identifying the mechanisms for interaction, what I call transversally, so that we really are part of the community. We don't just kick in at the last moment, at one minute to midnight before a Board decision is made or reacting to a Board decision. We're going to be much more engaged in the community, out of our silo and interacting, so that these issues about rationale for GAC advice will be completely explored, open, and discussed, and much better understood than might have happened in previous -- on previous occasions where the GAC has not been that effective in explaining the rationale.

So there are all these opportunities for engagement that we should anticipate and commit ourselves to thoughtfully.

Thank you. Thank you I've gone at at length. Thank you.

CHAIR SCHNEIDER: Thank you.



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Next is Iran.

IRAN:

Thank you, Chairman. I think the issue of carve-out required a very detailed and thorough explanation. It's not as simple as was explained. And it is outside the patience of this particular session. We have to go to that, and we will explain that.

I would like to come back to Indonesian comments and reply to my distinguished co-chair of the CCWG. No matter, dear co-chair, what CCWG does with respect to the jurisdictions. The whole process of the accountability and Work Stream 1 is based on the California law. That doesn't change. It remains because the whole community empowerment is based on the code 6 3 3 3. You cannot change that. If you change that, the whole process should be changed.

So you may have some particular cases, but ICANN office remains in California, remains in standard bylaw, and all of the code of incorporations of California law shall apply and continue to apply. So you can't change that.

Just request an explanation, my distinguished colleagues. That is that. If you do not that, you have to come back again and start another accountability based on another.

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So the whole thing is that. Because you establish an uncorp- -- incorporated associations to have the sole designator to be empowered to enforce the decisions, and that is based on California law. That cannot be changed in Work Stream 2. So Work Stream 2 may change some other aspect of jurisdiction but not this one. This remains as it is.

Thank you.

CHAIR SCHNEIDER:

Thank you. We have a few minutes left before we enter the coffee break, so if there are further comments or questions that you would like to make or pose before the co-chairs -- before we release them for this time, this is the time. Or are you all overwhelmed and long for a coffee break? Don't worry; this week will become much more intense than what we've had so far.

Iran, please.

IRAN:

One small -- one point before our distinguished co-chair leave this meeting. I would like to request colleagues to accompany me and to support me in expressing our sincere and indeed gratitude to the tremendous amount of work, indefatigably, considerably all the way through during the November 2014 up

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to maybe the end of 2015 has been done by these three gurus. They have been doing a tremendous amount of work. I have been following them so I know how much work they have done. All of those emails that Mathieu mentioned, they have followed, they have read, they have reacted, and they prepare the meeting behind the scene. It was not an easy job.

So I request all the distinguished colleagues join me and give a big round of applause to these three gentlemen.

[ Applause ]

THOMAS RICKERT: And can we say this was a team effort. It's not just us. The rapporteurs. Some of those deserving that applause are sitting in this room. So this really was a community-wide effort. Thank you very much. Much appreciated.

CHAIR SCHNEIDER: There has not been an expression on the substance of the proposal. That was a thanking on the efforts.

I have Canada and -- Was it? I have Canada and Morocco.

CANADA: Thank you. The distinguished member from Iran actually beat me to it. I was just also going to congratulate the very hard work

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and the extended efforts and impressive efforts over the past very long time period. So thank you.

CHAIR SCHNEIDER: Thank you, Canada.

Morocco.

MOROCCO: Thank you very much. I would like to thank the work of the CCWG. We are setting privilege because we have had the possibility of having you and inviting you to the high-level governmental meeting on Monday 7. There will be a session related to ICANN's accountability. We will be pleased to have you there.

CHAIR SCHNEIDER: Thank you very much. If there are no other comments or questions or observations, I think that we should move to the coffee break.

One brief thing. We are quite a lot, and some people couldn't find a way around the table because delegations have two or three members. So if you have room to your side, please try to squeeze up a little so that there may be more people around the

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table. You will be very polite if you do that, and we will thank you very much for that.

[ Coffee break ]

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CHAIR SCHNEIDER: Please sit down and let us continue the meeting. Thank you.

Please take your seats and let us continue the meeting. Thank you very much.

Okay. We are restarting now.

So the next item that we have on our agenda is an item that we've been dealing with for quite some time. And this is about the GAC's safeguard advice and the correspondence on this, the repeated correspondence on this between the GAC and the Board.

So this is agenda item number 3. And you have a briefing by our secretariat which is very helpful in your documents. And I will ask Tom to -- for those that are new or haven't been able to follow this in detail to give us a quick update on where we are with this issue and what we are trying to achieve or what we could be trying to achieve during this meeting.

By the way, something that is important to know. Normally, in a normal ICANN meeting, we discuss issues that will then be reflected in a communique of the GAC that is prepared during the meeting and then finalized on Wednesday afternoon, ideally, and then issued at the end of when everybody agrees on the text of that communique. This is what we will do as well this meeting on Wednesday.

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In addition, we will have to agree on another paper, which is not in the form of the communique because it's not an advice to the Board. The other paper will be a letter that we will send as -- as the GAC as a chartering organization to the co-chairs of the working group that was just present with us, the co-chairs of the Cross-Community Working Group on accountability. And the plan is to send that letter at the latest by Tuesday evening. So that would give us time on Wednesday to work on other issues and work on the communique. So just to keep this in mind.

So this -- what we are discussing now, what we're going to be discussing now about the safeguards category 1 and then 2, safeguards on new gTLDs, is an issue that is not directly related to the big thing this week, which is our final reply to the CCWG accountability. But this is something that will then be reflected in the communique that we'll finalize on Wednesday. Just that everybody is aware that we have two -- sorry -- two separate documents that we'll produce. One is an advice to the Board, and the other one is a reply to a Cross-Community Working Group. Thank you. With this, Tom, thank you for introducing.

TOM DALE:

Thank you, Thomas.

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The item that the GAC is now discussing on the GAC's advice and the Board's response concerning safeguards for new gTLDs is an issue that goes back quite some time. In fact, it started at the GAC meeting in Beijing some three years ago.

And there have been a series of exchanges between the GAC and the Board and, in particular, what was the new gTLD program committee over that two- to three-year period. So this is the latest development in a very long running issue for the GAC dealing with public policy based safeguards for new gTLDs introduced in the round that is now coming to a conclusion and which started in 2012-2013.

We prepared -- at ACIG prepared and distributed a revised briefing to the GAC last week because a letter -- some correspondence and other information was received from the ICANN board fairly late. These sort of things happen close to an ICANN meeting. So we updated the briefing.

So what we provided to the GAC was, firstly, a summary of what the Board is now saying to the GAC about outstanding safeguards advice. And that was in -- is now in three parts.

There was a resolution of the now decommissioned new gTLD program committee back in October last year during the Dublin meeting.



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There was a resolution of the ICANN board on 3rd of February this year.

And on the 19th of February there was a letter from the chair of the ICANN board to the chair of the GAC responding to a number of specific concerns that the GAC had raised. We have provided in the brief or tried to provide a consolidated table of those responses. I'm sorry it's a lengthy document, but there were a number of outstanding issues. And, as I said, the Board's response has been in a number of different parts over different time frames. So, if you're looking for a simple scorecard, with all due respect to the Board, I don't think one exists. We have had to try to put one together.

The suggestions we have made in the brief that the GAC may wish to consider concerns, firstly, the process here of interactions between the GAC and the Board and the fact that the GAC and the Board on this issue continue to exchange differing views on what these safeguards should be and what ICANN should do about them, if anything. And the fact that correspondence continues but there is not much exchange or views in between suggests that there could be an improvement in the way that the Board and the GAC communicate these matters to each other.

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The GAC does have a meeting with the Board on Wednesday morning, which is standard for our ICANN meetings, as many of you are aware. It may be an issue that the GAC wishes to raise with the Board not just about the substance but about the process and scope for improvement and avoiding what appears to be mutual misunderstandings sometimes and long delays between communications.

With regard to some specific issues, with regard to public interest commitments, which are requirements added to the registry agreement in response to GAC advice concerning consumer and related safeguards, it is possible that the GAC could pursue further action including ways of identifying best practice for public interest commitments, or PICs as they're called, through work -- through ICANN reviews that are being held on the current round and through the work that the GNSO is doing on future rounds or subsequent rounds.

We have a session specifically about future gTLD policies later in the week. And some of these matters could be, if you like, moved from the current round to discussion of the future round, if that's what GAC wishes to do.

With regard to community priority applications for new gTLDs, which is something the GAC has raised a number of times, there is an option of pursuing further action again through those

reviews of the current round and GNSO work on future rounds. But, in terms of changing the current procedures, the Board is saying to the GAC it is not inclined to further action on that either.

And, finally, with regard to one specific issue about data for reporting domain name abuse and preventing domain name abuse, it's possible that the Public Safety Working Group which the GAC has established could look at further action to take some of those reporting data issues forward.

Finally, to summarize the table at attachment one to that brief, essentially, the Board is saying to the GAC that it does not believe that any further action by the board is needed in relation to the current round of new gTLDs. It believes that it has either implemented the intent or the substance of GAC advice on all outstanding matters. And further discussion should be channeled into future policy frameworks rather than the existing round which the Board is saying to the GAC is effectively closing or has closed. There is, finally, a reference by the board to the GAC to a number of industry-based self-regulatory or co-regulatory initiatives which the GAC may wish to seek further information on. But, essentially, the Board is saying in their correspondence that they don't think there's a lot left for the board and the GAC to discuss on these issues in the current round.

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I think that summarizes the briefing we've tried to provide. I apologize for it being provided only last week. But, as I say, a number of items of correspondence came in late. And trying to combine it in a comprehensive narrative was not easy given other things. But we think we've made an effort. There is a history to it. A number of people who are here in the GAC are aware of that history and have taken the matter forward at previous meetings as well. So I'll leave it there. Thank you, Thomas. And hand it back to you.

CHAIR SCHNEIDER:

Thank you, Tom. And thank you, in particular, also thanks to ACIG for putting this together very nicely in the attachment of that document where it's clearly visible what pieces of GAC advice are, what the Board response are, and what proposals for comments are from ACIG. And I think this is very helpful to get an orientation over a very lengthy and complex issue.

So thanks very much. This is really very helpful. We have had throughout this time two co-leads, two GAC members who were leading the work and the formulations and the preparations of the GAC on this one. One is the European Commission, and the other one is the United States. So I tend to start with giving the floor to both of you to express your views on the reaction of the

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Board on our last communication on this one. So, please, European Commission and then United States.

EUROPEAN COMMISSION: Yes. Thank you very much, Thomas.

Well, I'm desperately looking for the piece that I underlined and scratched all over on the airplane very early this morning. 5:00 your time, only 6:00 my time. And of course I can't find it. And I want to start with a couple general comments. And perhaps I'll find the little piece that I scratched.

First of all, I thought the analysis that ACIG had provided us was very useful. We're very disappointed, of course, with a number of the reactions from the Board. We think that it wasn't sufficiently detailed and not sufficiently robust. That's perhaps the word.

On the other hand, quite frankly, I think we have perhaps gone about as far as we can in terms of pushing these issues in this current round.

There's one aspect that I would like to underline particularly. And that's the piece that I underlined in yellow. And, of course, I can't find it now. And that was the proposal to establish a committee between ALAC and I think it was the GNSO, if I'm not mistaken. That's the piece I can't find the specific reference.

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And I would suggest that that continue to exist and continue to review the PICs and the general good -- what's the word? -- best practices or good practices that were identified by the PICs. And we think that's something that should continue even in this round.

There's one other thing, and ACIG has referred to this in their assessment as well. And that relates to the competition consumer trust and consumer choice review about which we're going to speak in some detail tomorrow. But one aspect of that review is, of course, also safeguards. And we are looking at that in much more detail and in quite some depth in the context of that review.

So I think that is perhaps one place where we could now focus more attention. So, as I said, I think this voluntary committee to look at the PICs and where the best practices could be done is a very useful place for us to focus our attention now and, secondly, in the CCT review.

And then one other aspect -- but I'm not sure if it's worthwhile to raise it in the communique. We'll have to think exactly how to discuss that. But a clearer version of the scorecard would, of course, be much better. But I think, for the moment, that's where we would prefer to leave this point.

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CHAIR SCHNEIDER: Thank you, European Commission. In fact, it is not only the GAC but other parts of the community that have raised concerns or supported our concerns, in particular, the ALAC and some parts of the business community.

And, for your information, there is a letter that the chair of the ALAC, Alan Greenberg, has recently sent to the ICANN board that also raises a question of the review committee over the PICs and the implementation. And there is some discussion, some informal discussion between the GNSO and ALAC and the Board that has started. I was part of one of these -- I bumped into one of these discussions lately. Because there are some elements where this review is taking place already.

One of the elements (inaudible) is to see the consumer choice and review team that is looking at least at elements of this, the other elements. And there's a question whether or not to build a specific committee that would look into the PICs specifically or whether that can be attached to one of the existing review processes. So this is something that we may have a fruitful exchange with the GNSO, on the one hand, and also with the ALAC, on the other hand, as they also have quite clear views on what they would like to be done as a learning experience from the first round.

The U.S., please.

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UNITED STATES:

Thank you, Chair. And let me sort of also express our gratitude to ACIG for doing, frankly, a phenomenal job in pulling together all of this information at a very late hour. It was extremely helpful to have their take on the Board's most recent response.

I think we would definitely concur with our colleagues from the EU Commission. We think we have probably gone as far as is possible between the GAC and the Board interactions on this matter for this round. And we concur with the proposals made by ACIG that we now concentrate on the reviews to use them to our best ability to make sure that they cover all of the issues that we had been identifying progressively in the past several years and also look ahead, those issues that we have been flagging in different pieces of GAC advice about should there be another round. There are certain issues we'd like to have addressed. So we do think we have some avenues for going further. But, having said that, I think we would concur that, in our minds, we probably have addressed this round as to the best of our abilities.

And I think the Board has made an effort to respond. While it may not be as robust as we might like, I do think it has -- we're now at a point where we can probably close the book.



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Certainly, we think a tighter, a cleaner scorecard would be helpful. But I'm not sure that we need to prolong that debate, particularly. So I did want to thank ACIG. I think our identified options for going forward are very sensible. So I would concur with that. Thank you.

CHAIR SCHNEIDER: Thank you, United States. Further comments, questions. Yes, Switzerland.

SWITZERLAND: Yes. Thank you, Chair. I would like to make a couple of comments. I agree, basically, with what has been proposed by the European Commission and the U.S.

However, I would like to note -- and this is related also to the work on the GAC effectiveness -- that the Board in its last answer acknowledges that it didn't follow formally the procedures where for interaction. And perhaps that should be noted.

It's also interesting that the Board in its answer says that it can recommend that the review efforts and the efforts also to develop new rules for the subsequent rounds can include the consideration of commending and identifying best practices of PICs. And perhaps we could welcome this possibility and

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answer that we would be very happy if they would do so and recommend to the community that this is -- and this is done.

And, as a last point, I also think that the Board provides useful information on industry-led initiatives. And on these initiatives it would be also good to acknowledge that we consider this information interesting and that we hope that the Board or staff will keep us posted and in the loop, both of the efforts of these industry-led initiatives and the review processes and the community actions to develop and identify best practices and PICs. Thank you.

CHAIR SCHNEIDER: Thank you, Switzerland.

I have U.K. on my list, I think, but I'm not 100% sure. Okay. Thank you.

UNITED KINGDOM: Yes, thank you, Chair. And first of all, I just want to join you and previous statements to the fact that the work of ACIG in preparing this comprehensive analysis and with the very useful attachments, it's very clear, very helpful, setting out the GAC advice, Board response, and the sequencing, and so on. It's a very effective, useful document. Really appreciated.

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And I just wanted to comment briefly with respect to community applications, which Tom included in his summary provided earlier. I -- we -- As one of the GAC colleagues who have been following this issue and monitoring the problems and relaying them to GAC colleagues, it wasn't a working group as such but there was a kind of effort by me with the help of others on the GAC to maintain the visibility of the problems experienced with community priority evaluation processes and related ICANN procedures and criteria applied, and so on; that this will continue to be an issue, and we will work with colleagues. We haven't identified a team yet, but we will put together a team to undertake some research and analysis and come back to the GAC with a kind of next step with regard to the future round. I mean, that will be our focus. Following the previous questions we've had and the opportunity we provided for the ombudsman to present on his report, and so on at previous meetings, but now looking ahead. But we do note that there continues to be high-profile problems. One of the applicants for .MUSIC recently wrote to you about this, and it's an indicator of how the experience generally with community-based applications, and music was actually listed as a category 1 name back at the time of the Beijing communique. As I say, it's an example of how, for current round, has created enormous amount of problems and certainly disappointment and reaction, which very negatively

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reflects on the processes that were put in place for such applications.

Thank you.

CHAIR SCHNEIDER: Thank you, Mark.

We have a separate session that will come up tomorrow. Yes, tomorrow afternoon. Slot number 8 on the future round and on assessing next round. It's been switched, but it's tomorrow at the end of the afternoon. So I think that is definitely an issue that will be picked up as part of that discussion. So thank you for this.

Any more comments on the safeguard issue?

Yes, African Union Commission.

AFRICAN UNION COMMISSION: I'm just wondering if this is the right place to bring this up, but as you're aware, the GNSO have released the final report on privacy and proxy services accreditation issues for consideration by the ICANN Board.

If you recall, the GAC had provided comments that were prepared by the PSWG last year in September, endorsed and approved by the GAC.

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Now, when we look at this report, a number of the recommendations made by the GAC have not been taken into consideration. And considering that the Board is meant to be considering this report, I'm wondering whether we may want to flag this as something that we may want to think about, providing advice to the Board, particularly on the issue of distinction, ensuring distinction between commercial and noncommercial users.

So just a question and something to flag.

CHAIR SCHNEIDER:

Thank you, Alice, for raising this. In fact, we have just received a letter that -- from the Board on this issue, and we may use -- we don't have that much time, but we have a little bit of time on Wednesday allocated to the working groups. And since these recommendations are coming out of the working group, and they haven't been reflected in that report, if we don't have time now, but if people agree, we may start thinking about if the GAC wishes to reflect this in the communique, that we do this on Wednesday so that we can refer to this input from the GAC in our communique.

I think we should then slowly move on, but I have Iran on this issue. Thank you.

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IRAN: Thank you, Chairman. No problem to put it in the communique, but my question is that in this -- circumstances like this, that we make a comment and this comment is not taken into account and the recommendation goes to ICANN for consideration, perhaps we could raise the issue with ICANN as well, either in a meeting that we have with the Board or any other manner.

So it was mentioned during the CCWG that this sort of interactions between the GAC and the GNSO and others community have always been considered in appropriate manner. But we see that it has not been, so we have to raise it in order to enable the Board to make necessary decision that are appropriate. And if our comments have not been taken into account, either they are convinced our comments are not relevant or our comments should be taken into account.

Thank you.

CHAIR SCHNEIDER: Thank you, Kavouss. This is actually a good proposal. We can actually raise it in several occasions. The question is what do we want? We can raise it directly with the GNSO, because we have a meeting with them. We can raise it with the discussion with the Board and/or we can put it in....

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UNKNOWN SPEAKER: Raise it at all, with everybody.

CHAIR SCHNEIDER: But the question is what do we think is best. Maybe since we have the discussion with the GNSO first, if I'm not mistaken -- umm, yes, that's tomorrow afternoon. We may actually think of raising that issue in our exchange with the GNSO and ask them why they didn't take this into account for a rationale for their decision. And then we can still see with the preparation for the board whether we want to raise it with the Board again, how we're going to proceed. Is that okay?

I see people -- Thank you.

Other comments and questions? If that's not the case, then I think we should use the time and go back to the key item. Yes, Tom has something important to say, so let's give him the floor immediately.

TOM DALE: Thank you, Thomas. Whether it's important or not, you'll have to judge. It's just something I forgot to mention earlier, so it's important to me.

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There is a procedural issue on which we would like the GAC's agreement, if possible. On Wednesday afternoon, as you're aware, the GAC communique drafting session is normally a closed session. On this occasion, we have had a request from I think two ICANN I.T. staff to sit in and observe that session because they have been working with ICANN support staff and ACIG on development of the new GAC Web site. And because use of the Web site to assist in preparing the communique is part of the functionality of the new Web site, and there is going to be a comprehensive briefing and update on the GAC Web site development later in the week, but because preparation of the communique is part of the functionality to be built into the Web site, they have requested to observe how the communique is prepared in order to assist with their work. And obviously they'll be talking to the secretariat as well.

So the request is really to you to see if anyone in the GAC has any objection to two ICANN I.T. staff to just observe the preparation of the communique. Perhaps bringing to mind Bismarck's remark about making sausages, it's best not to know, but in this case there is a very specific reason for it. And as I say there will be a comprehensive briefing later in the week for the GAC on Web site development, and this seemed to us to be a reasonable request, but it's over to you to see if it's okay. Thank you, Thomas.



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CHAIR SCHNEIDER: Yes, actually we planned to bring this up in the beginning. I think this is in our interest to help those developing Web sites that they understand how our processes work. And they're technical people so they're not that much interested in the actual substance of what we discuss.

Anybody who has concerns with this? Yes, Kavouss. Iran, please.

IRAN: Not concerns, but I said if they want to participate and everybody agree, for that particular item they could come, but the remaining issues not.

Thank you.

CHAIR SCHNEIDER: I think it's not -- It's -- the idea is to -- that they are here when we work on the communique so that they see how this is -- how the process of us working on the communique, that they understand how we do this so they can use that information for the Web site. So they would be here on Wednesday afternoon, concretely. That would be the idea.

Is that clear?

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Yes, U.K.

UNITED KINGDOM: Thank you very much. It's a very sensible request, so yes, no problem with that. But I just wanted to take the opportunity to check with Tom and yourself if you -- when you expect to take a decision on how to use up the time released by the ccNSO withdrawal of their agenda item? Because as Tom knows, I put in a bid for the human rights and international law group to have that slot, but others may --

CHAIR SCHNEIDER: How high is the bid? Is it in -- no.

UNITED KINGDOM: We're all keen to have lunch.

CHAIR SCHNEIDER: Let's take that decision before we close the meeting at 6:00, if that's okay, so that we'll see where we are.

To come back, I take that we have no problem with some technical people watching us and try to understand not what we say but how we say it. Okay. Thank you very much.

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With that, let's go back to item -- agenda item number -- what's it called? 2, 4, 5, 6, 14, 16 and 17. That's the document. We are at 4 currently, so I think we had a good introduction by the co-chairs about the proposal, about how this was developed, and also about some ideas about the way forward.

I think we should, for time being, not spend too much time thinking about how this is going to be implemented because we first need to know what our views on the proposal is, and I think we should try and concentrate on that.

As I told you, or reminded you of, is that we had a conference call on Monday this week where we had, based on a number of previous exchanges already since last year, an exchange of views on the proposal. And I'd just like to -- yeah, give you the floor for comments, questions, expressing opinions.

You also -- And please bear in mind what has been said by the co-chairs of what the expectation is of an answer. Their preference -- of course, we are free to answer whatever we want, this is clear, but I think it's good to know what they would expect or like to get from us.

One thing is clear, I think the point that we should note is whatever we say should be as clear as possible so that there's no ambiguity and as little room for interpretation about what with

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it means that the GAC is -- I see some people smiling in the GAC -- what it means that the GAC is going to say.

So, yes, the floor is yours for comments and questions.

Or maybe before I give the floor to you, we will have to decide at one point in time whether we go to a general assessment of the report as a whole or whether we think -- and that was the preference, from what I understood, or whether we think we have to go through each of the recommendations. But from what I understand and from what I heard, I think the shorter the answer, the easier.

So, yes, Iran, please.

IRAN:

Thank you, Chairman. Before we reading a book, we could not decide or judge the content of the book. So first we have to go to the different recommendations. And to have a general understanding, some 30 people attended or participated at the call, but here we have much more wider representation. Perhaps for the benefit of the others, if you and other distinguished colleagues agree, perhaps we could have a brief discussions on the recommendation in order to be on the same wavelength and understand that -- in a common way that we

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know what it's about. And then you will decide how you proceed.

At this stage, I think we are far from deciding what we reply. It depends on how we analyze the situation. So let's, perhaps, if you and other colleagues agree, go through the recommendation and explain that in a very brief fashion, manner, in order to understand what it is about, and then decide appropriately after that recommendation, one by one.

Thank you.

CHAIR SCHNEIDER:

Thank you, Iran, for this proposal, and in fact you might be right since not everybody here has been following this very closely. It may be useful. But I think we should try not to spend too much time on us talking and explaining but actually hearing your opinions on the thing. So we hope we get the balance right between time for explanation and time for discussion.

So let's -- If that's okay, we will very quickly try to go through the 12 recommendations and ask on each -- and ask your views on each of the 12. We will probably not have to spend equal time on all of them.

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Also, given that we have already given some opinions on these recommendations as they were in the third draft, and not to all of them there's changes in substance.

So maybe, Tom, if you could help us quickly go through the 12 recommendations, starting with number 1, of course.

TOM DALE: Thank you, Thomas. Certainly.

CHAIR SCHNEIDER: Thank you.

TOM DALE: The briefing that ACIG distributed -- again, quite late in the day, and I'm sorry about that, but it was only a week ago -- the briefing that we prepared was done just before the GAC call. Again, I apologize for the lateness of it, but there are obviously a number of later developments that we had to try to incorporate because the report itself was not finalized until very recently.

And I should stress that as Kavouss and others have mentioned, the report itself is comprised of a significant number of documents, including annexes dealing with the recommendations in detail, and a number of dependencies complaining important information, including the minority

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reports. There are a number of those, and one of those was supported by a number of GAC members.

So very, very briefly, the situation that we ran through on the GAC call was as follows.

Recommendation 1, which deals with establishing the empowered community for enforcing community powers, the implications for the GAC there depend on firstly some threshold issues about the GAC being involved in operational matters as opposed to advisory matters, depend ongoing your perspective.

Considered in conjunction with recommendation 2, which provides a time frame for engagement, escalation, and enforcement; that is, working all the way through those advisory processes to actually exercise of the new community powers. The issue that was discussed in the call for recommendations 1 and 2 was the GAC to give further consideration to whether it wishes to be what the report terms a Decisional Participant, capital D, capital P. And that term means being involved in initiating community calls and enforcing final decisions, that's later stages, as opposed to an advisory participant, which the GAC had previously discussed. There are a number of different views within the GAC on that. And there are some additional views concerning the so-called GAC carve-out, which the co-chairs explained to you before. That involves excluding the GAC

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from participating in community enforcement -- sorry -- community decisions concerning Board actions that are based on GAC consensus advice.

Recommendation three deals with -- I'm sorry, yes. We'll pause there.

And, finally, you also are to consider that in conjunction with recommendation four, which actually specifies what these powers are. They are powers to deal with rejecting certain ICANN plans, the ICANN budget, removing the Board, removing directors, and initiating binding, independent review processes which are community independent review processes, not the ones we have at the moment. So it's 1, 2, and 4 represent a package.

So those matters were discussed on the call. And there was a range of views expressed, but there was no agreement to -- for a detailed common position at this time. So I'll pause there, if you're asking that, Thomas. Thank you.

CHAIR SCHNEIDER:

Thank you, Tom, for this package of elements that are related, actually, to this community empowerment, empowered community model. Questions and comments on these recommendations that we've heard so far? Yes, Iran, please.



IRAN:

Thank you, Chairman. May I compliment what Tom said. I suggest that we go a little bit more slowly to understand the whole issue.

Recommendation one is about empowering the community. We have to say why we need to empower the community. What is the issue on the table? The issue on the table is up to now NTIA making or performing this stewardship. One single entity.

They want to transfer it to the multistakeholder global multi-global community. So the global multistakeholder community must have the power to do the same action as NTIA.

So what is the global multistakeholder community? After many, many hours of discussion, this is currently will be these three SO and four AC. So these three SO and four AC should get together and establish an empowered community to something which is allowed in the California law called sole designator.

So the whole recommendation one is we perform these actions, get all these SO and ACs together to the unincorporated associations, which is allowed under the code 6333, and then being empowered to act as a future stewardship of these situations replacing NTIA. So that is the whole thing about recommendation one. Nothing else. We should not talk about

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the GAC carve-out. We should not talk about anything. Only recommendation was empowering community, and that is about this. So we should see whether there is any difficulty in understanding of that and whether there is any alternative.

After 14 months of the work CCWG found that that is the only possible way through the advice of the two legal advisors that employed by the CCWG. They studied carefully. And they said that, after many, many back and forth gymnastics between various options, this is the only option that works that all community could be empowered to act for this stewardship. Thank you.

CHAIR SCHNEIDER: Thank you, Iran. Comments, questions on recommendation one? European Commission.

EUROPEAN COMMISSION: Yes, thank you. I just wanted to underline how useful we thought the analysis done by ACIG was. I think it's objective, independent, clear. And it puts quite clearly black and white the pros, the cons, the implications for GAC. So I wanted to recommend again to everyone to read it, if you haven't had a chance yet. And, although I appreciate very much what our colleague from Iran has said -- and I agree with him -- I think we

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will spend a lot of time, if we go through each of these cases repeating what is already in a very useful and clear proposal that's been made by ACIG -- which is not to say I don't agree with going point by point. I think we should go point by point. But I don't think each of us can then reiterate exactly what it is. I'm just suggesting that, even though it was very useful, Iran's assessment, I think we won't have time for each of us to go through and do it. I think we should base our discussions on the ACIG paper, which I think is very clear, independent and go through it in that way, if that's all right with you.

CHAIR SCHNEIDER:

Thank you, European Commission. As I said, this is a tradeoff, to some extent, on how inclusive we are with explaining things and how much time we have to actually discuss it. So maybe, since we're going to continue anyway tomorrow with this discussion, those who haven't had the chance to read it, it's a very nice bed reading exercise to go through all these recommendations of course. I'm going to reread them tonight again. So, in case you read it, you're not alone.

So any other views and comments on recommendation one? U.K. and -- ah, U.K. Thank you. And Denmark.

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UNITED KINGDOM: Yes. Thank you, Chair. I think it might help, actually, to plan our work on this and the extent to which we go into detail, if you recount the outcome of the GAC conference call. Because I thought it was quite useful how we were able to say -- or identify which recommendations were completely uncontroversial and avoid -- I mean, there are a large number on the call. But, obviously, a lot of numbers weren't able to meet -- join the call.

But I use that when talking to stakeholders. The GAC is okay with four, six, and you know -- and that would help us here, I think. Thank you. Just a suggestion. Thank you.

CHAIR SCHNEIDER: Thank you for that good suggestion. So, to make it very brief, the quick run through in that call was there were no concerns on 10 of the 12 recommendations. There was an intense debate on recommendation two, which is linked very closely, of course, to recommendation one or is the follow-up to recommendation one. And there was an agreement or consensus that there was no consensus or no position on recommendation 11. That's a long history. I won't go into details. These were the two -- all the others there were no concerns expressed by those that were present on that call. Of course, everybody has the right to express concerns here. That was just to give you that information.

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I have Denmark and then somebody else. Ireland.

DENMARK:

Thank you, Chairman. Denmark can support the recommendation one. This, as we see, has allowed GAC to be in the empowered community. I expect and I will have your assurance that we will come back to whether GAC will participate and, if we are going to participate, in what role are we participating? I think that's two different things. We have a recommendation. We have no problem with a recommendation. But we would like to have a separate discussion on how GAC will participate in the future. Thank you.

CHAIR SCHNEIDER:

Thank you, Denmark. Ireland.

IRELAND:

Thank you, Chair. Just wanted to follow up on the previous comment from the colleague from U.K. I think the proposed structure of approach would be useful. If, indeed, we can establish that there are 10 uncontroversial recommendations, we would know then that we can spend time on the remaining two.

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CHAIR SCHNEIDER: Thank you. There were requests to go through all of them to give everybody who has not been on the call the chance to do that. So I'm in your hands. You have to agree what we should do. Either we leave out the 10 where no concerns have been expressed during the call or whether we go through them again to give those a chance who haven't been able to call. It's an either/or. Iran.

IRAN: Thank you, Chairman. If colleagues doesn't want that we go through the various recommendations, we don't want to go that. We are happy. Because we know them very well. We want, to the benefit of the colleagues, at least to have a brief explanation of each recommendation. If some colleagues said this is not necessary, so we take that recommendation 1-12, accept 2, and 11 is agreed by the GAC. We don't want an explanation. This is my understanding of the intervention of certain colleagues. They don't want that, even if we explain in five minutes for the benefit of the people who have not followed this discussion, so far so good. We don't need any explanation. We know it very well. Thank you.

CHAIR SCHNEIDER: Thank you, Iran.

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Before giving the floor -- well, something that we may not have realized in the call, we may very well go with that suggestion. But then I would suggest you take one and two together, because the carve-out and some elements of what is under discussion here where people are struggling with is in one and two. So maybe we can say if everybody agrees that we'll not discuss 3-10 and 12, but we'll only focus on 11 and 1 and 2, that would be something. Any objection? France and European Commission.

FRANCE:

Mr. Chairman, regarding the carve-outs, as you said, I think also relates to recommendation one. And, as you know, many countries express their concerns including the minority statements regarding option 1, 2, and 11. So it would be the three ones where there was no consensus. Thanks.

CHAIR SCHNEIDER:

European Commission.

EUROPEAN COMMISSION:

Yes. Thank you very much. What I was suggesting is that we do go through the non-controversial areas where there has not been a minority position taken. We had five GAC members in the CCWG. My point was only that, if we have an explanation from

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the secretariat and then each of us gives his or her own explanation of what happened, again, we just won't have time. So it wasn't to stop a discussion. My proposal was to go through it. Let's look quickly. And, based on the very useful analysis that's been done by ACIG, at those areas that are not addressed by the minority positions, where, so far as I can see, there are no objections. So far as I can see. I put it that way. And then on the basis of that we will see if yes or no there is support for those. Then we can go back to those where there was a minority view and where there are still perhaps concerns and see what the real implications of those are and go forward that way. That's what I was saying.

Not cut anyone off. But --

CHAIR SCHNEIDER:

Thank you. Let me try and make a proposal. Because, if we continue this discussion for too long, we won't have time for either/or both, either going through or focusing on the crucial ones.

We can maybe give -- we can assume that -- give people time until tomorrow morning to look at the proposals. And, if nobody raises an issue or concern on the nine others, the ones apart from 1 and 2 and 11, then we assume tomorrow that there is no concern coming from the GAC. So we don't have to go through



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them, read them out now in whatever length or shortness. But we give people time until tomorrow to raise concerns. If that does not happen, we won't go through them. If that happens, we will then deal with them. But I would now suggest we concentrate on the discussion on, let's say, 1 and 2. If there is any objection to this proposal of proceeding. Olga. Argentina.

ARGENTINA:

Thank you. It's not an objection. It's just a suggestion. Maybe secretariat could point out -- oh, my God. English is bad today -- point out which are the documents people should review this evening so we are all sure that we're on the same page. Because there are several documents in all the very nicely prepared documents that we received. And maybe for some of us it's difficult to identify them. Just that suggestion. Thank you.

CHAIR SCHNEIDER:

Thank you. I think it's just a briefing paper on item 2, 4, 5, 6, 14, 16, and 17. Because everything -- for those who need more information or need first information, I think this is it. It's 40 pages if you go through the whole document. But it's less if you concentrate on the key issues.

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TOM DALE:

Thank you Thomas. Just to add that the document which has "updated" on it is the version you should have which was distributed, I think, on Monday. Yesterday is 40 page. And it does contain all the recommendations and some comments from ACIG. But it also has links, very importantly, to the CCWG site where you can download and access all of the package of materials. And, yes, it is a substantial package. And that's understood by everybody, not just in this room but across every community that's meeting here this week. Or next week. But, please, bear in mind there are links provided. And, as I said, there is not just the report itself. There are a significant number of detailed annexes which are a very important part of what the CCWG is proposing. And there are a number of appendices as well to provide a full context. It is all of this material that will be going to the Board and onto the NTIA, if that is what is agreed. Not just one report. So -- and, certainly, not the ACIG briefing.

But I thank the European Commission for their kind remarks about the usefulness of it. It did take up much of my weekend last weekend when I should have been watching the football. But, in any event, the document that we provided does provide those links as well. So please bear that in mind. We've tried to provide you with -- I pointed to the information. But we can't distill the many hundreds -- it may be thousands by now -- of pages in the report itself. That's a little bit much. Thank you.

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CHAIR SCHNEIDER: Thank you very much. Tom.

So can we agree we start discussing one and two? Do you prefer to have it together? One and two? Or should we try to divide one first and then two. One and two together. Iran.

IRAN: Thank you, Chairman. We appreciate very much the briefing of the secretariat, but that is their assessment. It may be different from our assessment. So I don't think we should base ourself on the judgment of the secretariat. It is dangerous. Either we don't discuss it or we discuss it based on this. But not the other one. That is good for the background. So either we want to lead the colleagues correctly or we don't want to lead the colleagues correctly to something. So either we don't discuss them at all, or we discuss this document which has the consensus or whatever for the consensus. But not assessment of individuals. Thank you.

CHAIR SCHNEIDER: Thank you. This is understood. Of course everybody is free to go to the original text. I think that is clear.

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I still have Canada on my list. I haven't forgotten you. Substantive statement or a statement under procedure? Canada. Please.

CANADA:

Thank you, Chair. I was just going to make the observation that I think the importance of recommendation one is that it sets a foundation for the rest of the report. And, in terms of moving the benchmark to say it's not going to be U.S. oversight is now the empowered community, I think that's a really significant accomplishment. And it is a principled change. And I think that is important to recognize how it's going to be done is addressed in recommendation two.

But I think we all would agree this is a multistakeholder approach that is addressed or described in recommendation one. So, as a matter of principle, we are changing the U.S. oversight to the empowered community. So, in that respect, I think perhaps the points of contention lie more so in recommendation two. Thank you.

CHAIR SCHNEIDER:

Thank you.

Further comments? Indonesia?

INDONESIA:

Just short comment, Tom. I think, as was mentioned in the beginning, like Californian law and so on, everybody will be unhappy of that. I mean, I, myself, will be a bit unhappy from recommendation 1, 2, 3, 4, and so on. But, at the end of the day, you can still have to live with it. Because otherwise no final decision of the proposals. Secondly, should we are faced with the problem. And it's also possible for every country to implement the program in their own country.

Just give you an example. The recommendation of human rights. The human rights in every country is different it's not allowed -- human rights to -- this is just -- and so we'll have to do something that we have to do to implement the regulation in the country, the human rights of the country. So I think we can live with all this a bit unhappiness in our recommendations. But, at the end of the day, we have to make sure that we will finalize that by next week to pass to the NTIA. Otherwise, it will never happen and never finish. Thank you.

CHAIR SCHNEIDER:

Thank you, Indonesia. Other comments or questions? Any expressions of support or concerns with regard to one or two? Okay. To live with recommendation one and two? Or is it just

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too late in the evening? And you will come back to me tomorrow and say no, no, no, that's not what I meant.

We have 18 minutes left. So we should try to use it.

Yes, Iran. And Netherlands.

IRAN:

Thank you, Chairman.

Yes, the recommendation 1 and 2, in fact 1 is the skeleton of the whole accountability and 2 about the various powers that could be exercised.

The only thing that's on recommendation 2 is the carve-out. It may be -- to some extent also appear in recommendation 1. So we should address the carve-out with the carve-out with the recommendation 11. Apart from that, giving the power for changing the bylaw fundamental, changing the bylaw the standard, changing the budget, and removing individual board. We cannot remove that because we don't designate any individual board. Remove the entire board, IANA functions, budget, so on and so forth. So those don't have any problem at all. That's an element of that.

The only thing in recommendation 2 is carve-out, and partly appear in recommendation 1, and that is directed to

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recommendation 11. Perhaps we should postpone that carve-out to when you discuss recommendation 11 to see what is that.

Apart from that, recommendation 1 and 2 is something that the whole accountability is based on that. I don't think there are any major difficulties or problems. All of those power have been discussed and that should be implemented. It has been discussed, and the CCWG and CWG based on the understanding of the various powers and division of bylaws and ICANN budget, annual budget, five years budget, all of these things.

So apart from that carve-out that people might have some view, there will be no other difficulty with 1 and 2.

Thank you.

CHAIR SCHNEIDER:

Thank you, Iran.

So with regard to the carve-out, this is paragraph 52 in recommendation 1, and elements reappear, then, in paragraph 102, and recommendation 2, and I'm not mistaken.

Next I have the Netherlands and then Brazil.

NETHERLANDS:

Yes, thank you, Chair. I was going to say the same as my colleague Arasteh, Kavouss. Recommendations 1 and 2 are

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account of principle, and it is about, let's say, the balance of powers between community and Board and between, also, parts of the community. Meaning this is, I think, the very fundament of what we're doing in this exercise.

So I -- I think the same as Mr. Arasteh. I expect just a few things in this that are causing concerns to certain governments.

Thank you.

CHAIR SCHNEIDER: Thank you.

Brazil.

BRAZIL: Thank you, Mr. Chair. And I would start just by making some general comments in regard to the way we have been approaching this exercise, our participation in the preparation of the proposal for transition of the IANA function.

First of all, I think it is important to mention that Brazil participates here, but take into account the very large context of Internet governance related discussions. And we, of course, take into consideration the very important meeting we had just a few months ago in New York in which we could revisit a ten-year implementation of the WSIS outcome. And we think that



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was a very good and balanced outcome document. It could get there. I think that reflected the efforts of all governments working together with the inputs from stakeholders. And I think we could get to a document that reiterated, reaffirmed the framework we have received from -- that was adopted at the WSIS summit. And of course there we have the establishment of the multistakeholder approach as the default or the appropriate way for governing Internet. And this is something we are fully agreeing with.

At the same time, we, by reaffirm the framework coming from WSIS, we also recognize that the multistakeholder approach should allow the space and mechanism for all stakeholders, including governments, to fully participate.

By saying this, I want just for the record to say that my delegation has been participating in this exercise, truly convinced of the fact that the multistakeholder approach is very appropriate for governing the IANA functions. We are totally comfortable in working in the multistakeholder environment within ICANN. We think the management of critical resources is the -- may be the area for -- by excellence in Internet governance that allows for this multistakeholder format.

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But we also think it is very important to ensure that the proposal, the final proposal will allow each and every stakeholder to play their roles and responsibilities adequately.

Therefore, we agree with what we have heard in that recommendation 1 and 2 refers and relates to the multistakeholder approach, which we fully support, but we are concerned that -- and this brings on board the discussion of the carve-out, because I think that brings on board an imbalance in regard to roles and responsibilities and the way governments will be able to exercise their responsibilities within the new model that we are forging.

So we look forward to discussing this tomorrow. I think at this very late hour, I don't think we'll have time to engage on this. But I'd like to reiterate our support for the multistakeholder approach within ICANN; our adherence to the exercise we have been doing but our concern in regard to the imbalance that that notion conveys. And of course when we discuss recommendation 11, that will come even with more emphasis.

Another comment I'd like to make in regard to human right, I was a bit disturbed about something I heard here that human rights apply differently in different countries. We cannot support this, unfortunately. We think the human rights are universal, indivisible, and as spelled out by the human rights

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declaration. So we think the way we'll approach human rights within ICANN should reflect that understanding. And I thought that was the consensus among ourselves in regard to human rights.

Thank you, Chair. For the moment, those are my comments.

CHAIR SCHNEIDER:

Thank you, Brazil.

Well, I think, to refer to the discussion on human rights, I think you the international framework of human rights is clear that this applies for everybody equally, but there may be additional regulation or rights on local level that may differ to some extent on national level. So I don't think -- don't see this as a contradiction.

Thank you very much.

Further comments or questions?

European Union.

EUROPEAN UNION:

Yes, thank you very much, Chair. I just have a question and perhaps it's a proposal. You will decide whether it's a question or a proposal.

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I'm very sympathetic and very concerned about the concerns of Brazil, and I know there are many others who have this concern. I'm entirely neutral on this, as you can imagine. But I'm just wondering if it would be useful for those who have concerns about the aspects of GAC participation related to recommendation 1 and 2, if they could quantify or clarify exactly where those are or what the specific concerns are.

I understand very well the concern. We all want to have an operational active multistakeholder system that is working with all actors according to their appropriate roles and responsibilities, and I'm very sympathetic to the concerns. I just would like to have, for my own understanding, and I'm sure it would be useful for the others as well, to see exactly if it can be quantified or clarified exactly where the concerns are.

And then, of course, we'll discuss this in more detail tomorrow and the next days.

Thanks.

CHAIR SCHNEIDER:

Thank you. Well, we can -- we can -- of course I think that will come out of this discussion that those who have concerns with the proposal as it stands -- You have the statement that was sent to -- as a minority statement of the CCWG. That actually

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contains a number of elements. But -- Yeah. If people are ready to reexplain or restate their concerns.

Yes, Iran.

IRAN:

Thank you, Chairman.

His Excellency the ambassador was quite clear mentioning that as far as the support of the multistakeholder bottom-up approach is concerned, they have no difficulty at all with that. The only thing that this 2 recommendation has been amended bringing element of carve-out arising from recommendation 11 to these two. If for the time being we take this carve-out separate, go to the recommendation 11 later on and clear what is the carve-out is, what is the implication of that, what is the probability of occurrence of that, what is the pros and cons, perhaps there seems to be no problem with recommendation 1 and 2 as far as the skeleton and seven powers that have been explained these two.

So I don't think we take that approach proposed by previous speaker. So we may just skip all these carve-out discussions, go to the remaining part if quickly you can do that, and tomorrow concentrate on recommendation 11, talk about Stress Test 18, talk about the level of objections or approval of the GAC and

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GAC advice, and then going to the carve-out and the consequence of the carve-out and impact of the carve-out to the IRP or to the removal of the Board. That would facilitate the discussion.

So this is the way I would suggest for your consideration.

Thank you.

CHAIR SCHNEIDER:

Thank you very much. I think there's a good point in there, because the problem is everything is linked and you need to start somewhere, so we started with one but I think we will go to 11 tomorrow morning to close that circle of linkages between 1, 2, and 11. So that's a very fair proposal.

I have the U.K. on the list next.

UNITED KINGDOM:

Yes, thank you, Chair, and, yes, I agree with that approach. From recommendation 1 to issues that flow from that, how governments participate in the empowerment structure based on principles set out in recommendation 1. And I think Denmark put the question for us very clearly that we have to decide: Can the GAC be solely advisory or would it be a decisional participant? And that means in practice taking part in a vote,

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which is something GAC has never -- never done, is not designed to do, and so on.

So that's an issue for discussion. The other one is the so-called carve-out and the very specific, as I think Iran -- our colleague from Iran was saying, what are the specifics here of the carve-out, identifying that. And as I said in the earlier session with the co-chairs present, it does not mean exclusion from the process of reaching a community-based decision. The GAC will always be there in an advisory role if we're not participating as a voting, decisional participant.

Just quickly on the third point about the multistakeholder process and ICANN, I think, as I said also before, we're seeing an evolution here of the ICANN model as a multistakeholder model, which enhances the roles of governments through the transversal working we are devising with the GAC -- sorry, with the GNSO. That means a much more communal approach, collegiate approach, many more opportunities for us to advance public-policy interest issues, legal issues, and so on in policy development, and the kind of issues that might be petitioned in an escalation process will reduce. And as I see it, that's the vision: Less friction, less issues to get confrontational about.

So thank you. That's my last comment. Thank you.

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CHAIR SCHNEIDER: Thank you, U.K. Further comments? Paraguay.

PARAGUAY: Thank you, Mr. Chair. I would like to concur with my distinguished colleague from Denmark in the sense we're discussing recommendations here. As far as I understand recommendations are that. Unless I didn't understand correctly and we're talking about orders or dictates. Thank you. Mr. Chair.

CHAIR SCHNEIDER: Thank you. Well, they are recommendations. But, if nobody objects to it, they will be implemented. So then they will turn into realities. So we have now the opportunity with other -- together with other SO and ACs to say we support or we don't object to these recommendations being implemented because - - or we have no -- or we have objections or have no consensus or whatever. But it's, basically, the signal is implementation of this. Yes or no.

And then, theoretically, we could say implementation of this yes, but -- but that's going to be difficult because the "yes, buts" have happened over the past months. And now, basically, it's more or less a yes or no that is required with maybe some



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explanations or some reference to explanations that we've already given in the past.

But the question is do we object to this proposal, these recommendations to be implemented as they stand in this document? I hope that at least is clear and that you agree with what I said. Switzerland.

SWITZERLAND:

Thank you, Chair.

As we are approaching the end of this session, I just wanted to share, perhaps, a reflection with other colleagues. And, while we read this excellent briefing by ACIG tonight, I think that we should look at the -- also at the larger picture, also, when we look at recommendations one and two, to see how this is really an effort to make the stewardship of ICANN by the multistakeholder community operational and how there are so many positive aspects in this, as our colleague Kavouss said, in this skeleton and in these powers which are defined in recommendation two, which are absolutely positive and where we should probably give a sign of support or to value the positive aspects of it. Although, as we have seen, there may be concerns on some of the aspects of the details of these recommendations. But I think it's really useful to not just to focus on what is problematic but also to consider where are we

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at what step of this process we are. We need to give a clear and simple answer to the CCWG. And in that answer I think that we have to look at the larger picture. Thank you.

CHAIR SCHNEIDER: Thank you, Switzerland.

It's one minute past 6:00. There's one more chance for somebody taking the floor.

Iran, is that you? Okay. Thank you.

IRAN: Yes. Thank you, Chairman. Perhaps we could have this provisional conclusion on recommendation one and two. I put in a proper text order. Pending further clarification on the carve-out which appears in recommendations one and two and discussing this issue in connection with the recommendation 11, GAC in principle supports the objectives of these two recommendations. Thank you.

CHAIR SCHNEIDER: Thank you for that proposal. Let's remind what Thomas Rickert said. Let's try to be as clear as we can. I'm not sure whether, if we go in such a declaration of dependencies, that we actually

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make it more clear what we want. But let's take note of this proposal. Let's think about it.

I think we have a nice and interesting morning tomorrow morning to continue that discussion. We will start with recommendation 11 for a change. We haven't discussed this in detail for quite some time. So maybe we'll see there are miracles that people find each other somewhere in the middle. You should never stop dreaming. So have a good evening. Thank you very much for this first afternoon. Yes, Redouane, please.

REDOUANE HOUSSAINI: Thank you very much, Mr. Chairman. Somebody from the ministry came here and wishes to be present in the high-level meeting and has told me that tomorrow there will be a dinner served in the -- to the owner of the delegations at the restaurant at 8:00 p.m. in downtown Marrakech.

There will be two buses departing from here 1915 for the ministers and heads of delegations. There's no room for everybody, unfortunately. And you can get your invitation card from Julia. All of you know her, so please go and find your invitation card. Thank you.

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CHAIR SCHNEIDER: Thank you very much for this generous offer, Redouane, from Morocco. There are lots of people here. So I think there are lots of guests to that dinner. And I hope you enjoy this Saturday night in Morocco. So let's be here as sharp as possible at 8:30 a.m. tomorrow, Sunday. Thank you very much.

**[END OF TRANSCRIPTION]**