
HELSINKI – CWG Stewardship, CCWG Accountability and GAC Next Steps (2nd Session)

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CHAIR SCHNEIDER: Please take your seats. We have to restart. Time is running.

All right. In this session, we will go back or go ahead to another discussion on IANA transition. I don't think we should spend -- We have a limited time, of course. I don't think we should spend more time in the plenary here discussing the Customer Standing Committee. I took it as there was no objection to us having a liaison. So we'll continue with this electronically. The deadline is, if I'm having it right in my head, the 22nd. So think about who that liaison could be. Let's continue that discussion electronically from today and during the meeting, and then in the next week.

I suggest that we spend this 30 minutes or what is remaining of them on the accountability track because there's a lot of fundamental things that we need to get to grips with, including also like what we've heard the GNSO has started to do, analyzing structures and modifying structures, if necessary; creating new structures.

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I quickly hand over the floor to Tom who has prepared an excellent brief on the follow-up of the accountability Work Stream 1. And, Tom, please, go ahead.

TOM DALE:

Thank you, Thomas.

Good morning, everybody.

The starting point for the discussions here that we included in the brief that we circulated in the main briefing pack a couple of weeks ago, the starting point for this discussion is suggested to be what the GAC decided in Marrakech.

You may remember there was great excitement concerning the GAC's role in finalizing the reports of -- the final report of the CCWG Accountability. And in the GAC's Marrakech communique, and I'm quoting here, the GAC stated that as regards recommendations one and two, and those are the recommendations in the Work Stream 1 report that set up the empowered community structure, as regards those recommendations, the GAC expresses its willingness to take part in the envisioned empowered community mechanism as a decisional participant, under conditions to be determined internally.

Well, those conditions have not yet been determined internally by the GAC, so my understanding is this is the starting point for that consideration. There has been no major discussion of this issue within the GAC since the Marrakech meeting.

We have suggested in the briefing, based on a mapping process against the current operating principles that we attached as well, we've suggested that discussions on the policy issues could include a basic principle of the GAC treating all actions within the empowered community on their merits; secondly, clarifying to which there is an option of abstaining from some practices and what this means in practice; and thirdly, developing criteria for participation that address both decision-making situations and ones where an advisory role may be appropriate.

On the more detailed issues where the GAC, like the other SOs and ACs across ICANN -- and as you just heard, the GNSO is starting to deal with these issues, as well, for their purposes -- but for the purposes of the GAC, we have outlined a number of areas for consideration and eventual decision by the GAC. Firstly, with regard to the empowered community administration, which is the body created by the bylaws to be the collective entity of all decisional participants. And remember, the GAC is now a decisional participant because it said so.

The procedures for dealing with challenges to Board actions will require GAC to consider, amongst other things, who the GAC believes its constituents are for receiving requests to challenge Board actions. If a member of the community comes to the GAC, is this the right place for them to come to ask the GAC to initiate a challenge to a Board decision? What sort of people will the GAC listen to to initiate those sorts of issues from the community? That's one example.

The GAC may accept petitions only from governments and public authorities, for example. This is covered or mentioned in the brief.

And there is also some need for a procedure for the GAC to decide specific cases within the time frames that are in the bylaws. In most cases, those time frames will require a decision of all decisional participants between sessions; that is, not at -- not waiting for the next ICANN face-to-face meeting.

So those are all of the practical issues that we've tried to summarize in the briefing document.

There is also a relationship with the operating principles, of course, but we are suggesting to you in our advisory role that the proper sequence is to settle the policy approach first; that is, what the GAC wants to do about its rules, and structuring those rules. And then as a final element transfer them into amended

operating principles. We are suggesting that perhaps the better approach is the operating principles are the means to the end, but the GAC must first consider the end; that is, what sort of procedures you want now that the GAC is a -- well, say is a decisional participant; will be a decisional participant when the bylaws come into effect at the end of September this year, if all assumptions continue to be met.

So that's the overview to start the discussion, Thomas. I'll hand back to you.

CHAIR SCHNEIDER:

Yes. Thank you for this introduction. And there are a number of -- as we all know, a number of elements of key importance that we need to start working on now.

So let me give the floor to you for comments, questions, views. This is the moment to start getting engaged.

Brazil.

BRAZIL:

Thank you, Thomas. And good morning to you all.

I would like to refer to the participation of the GAC members in the CCWG Accountability. And first of all, I would like to publicly

thank our colleague from Niue for withdrawing his candidacy as the GAC appointed member to the CCWG Accountability.

Brazil considers the role of GAC appointed members in the CCWG Accountability to be key to the success of the work stream exercise. As we previously expressed, we believe GAC members should exercise a high level of engagement in this process.

Former, and new members as well, as more GAC colleagues, should have the same opportunities to be able to engage in this exercise. And they should, as well, have a deep knowledge of the Work Stream 1 Accountability process. Once the Work Stream 2, should not change but, rather, build on the outcomes of the Work Stream 1.

And last but not least, let me reiterate that Brazil will be in a position, if this is the understanding of the whole GAC, to fill one of the five positions of GAC appointed members to the CCWG Accountability.

Thank you.

CHAIR SCHNEIDER:

Thank you very much.

And thank you also for Par from Niue to be very flexible and help us in the sense that we have now five candidates for the five

membership seats in the CCWG. They come from Canada, Iran, Brazil, Denmark, and Argentina.

So maybe we can have a quick feedback from you in the sense that is this something that you can accept as representation with regard to membership of the GAC in the CCWG for Work Stream 2? Knowing that the status of participant is open to any of us, and a lot and actually an increasing number of GAC members have made use of this during Work Stream 1, and we hope that won't change for Work Stream 2. So -- But since the CCWG is waiting to hear the final names of the members from our side, can we do this now and see whether these five candidates are acceptable to you?

Panama, please.

PARAGUAY:

Thank you, Thomas. Nicolas from Paraguay speaking. Do you want us to give you our answers now or you need them in writing? What would be the procedure?

CHAIR SCHNEIDER:

The transcript will make sure that what you say now is available afterwards in writing. So let's do it orally. I think that's the easier way, if we can get this quickly done.

Peru.

PERU: I would like -- Peru would like to support the nomination of the five persons you just mentioned, the five countries you just mentioned, especially Argentina, Brazil.

CHAIR SCHNEIDER: Thank you. Let me maybe do it the other way around. Is there somebody who has concerns or problems with the five candidates as a whole?

I don't see a hand up. So can I take this as agreed? Okay. Thank you very much.

And of course we made it very clear that they will be available to all of us. They will do hard work not just in participating but also in reporting from the meetings and coordinating among themselves who is going to do what. And we are very confident that this will work.

Thank you very much.

With this, let's go back to the question of how to -- how to assess and make sure that our internal procedures and structures enable us to do what we want to do or are supposed to do in this new structure. And there are two elements to this of course.

One is -- and Tom has already referred to this. One is we may have to come to a shared vision in a little more detailed way about how we would actually want to participate in this empowered community, because if I'm not mistaken, if my memory does not fool me, then there were still some, let's say -- we were not all on the same page in every detail of how our participation is supposed to be shaped. And where we met was we need to develop criteria or indicators or a mechanism for us to do that.

So -- And then once we have a more or less shared vision, we need to actually create the mechanism or look at the existing structures. And if we think we need to build new mechanisms, we need to build them.

So I think these are two elements. And then the question is in what shell do we do this? Do we put this into the Operating Principles Working Group or should we, rather, keep it in a separate process, more related to the actual accountability team?

So I think we should use this time here now to try and identify the next steps and the direction that we want to go.

I see Iran and Denmark.

IRAN:

Thank you, Thomas.

I think we should not hurry to decide on something which is composed of two almost contradictory status that we have.

There are five constituencies or SO/ACs. Three of them are supporting organizations and two of them, they are advisory committee.

We have mentioned in our previous communique that we would like to remain advisory. Therefore, any decision we make in future should not contradict that very principle based on which people have consensus.

However, it was also mentioned in our communique that we are happy that, like other SO and AC, we have been empowered to exercise our rights. How exercise that? And when exercise that? That is a matter that we will need to discuss and see whether we take it on a case-by-case basis, whether we treat it differently.

Therefore, I think among the five, there is one which is almost close to us, but not exactly, and that is ALAC. It is close to us. They are also advisory. Although they have director, we don't have any director as such appointed with vote. We have director, but it does not have the right of vote.

So, therefore, we perhaps start some discussion and reflection, and not to decide because it is very early. However, we should

maintain these compositions of contradictions. Remain advisory and exercise the right of decision-making.

You have to find a way between these on one hand, retain our advisory capacity that many people they agree. On the other hand, if there are cases, issues that we need to react, in particular those areas that touches the right of the GAC, government, let us say, we should consider that how we react and so on and so forth. We may not be involved in all decision-making. We are not like X and Y in the ICANN community, but we have a little bit different. So this is an issue that we have to, first of all, discuss but wait but not decide and also maybe the decisions or approach taken by ALAC may be also helping us to facilitate our decision-making for this matter. Thank you.

CHAIR SCHNEIDER:

Thank you, Iran. United Kingdom. Oh, sorry, Denmark. You're so close to each other. Like here. Not geographically, of course.

DENMARK:

Thank you, Chairman. Yes, things have for many years been in England and have actually still there's power of England who still have Danish names and so on, as far as I remember. But that's another history.

Thank you, and thank you also for Tom to touch upon it is important to look at the angle, what do we want to achieve and in what capacity do we want to participate in the future? And as you, Chairman, rightly said, there might be or probably is different views on that and we have that discussion before we have decided that we should participate as a decision-making party but to what extent, that is still to be discussed. And I think -- and I'm -- I think that was also the message for Kavouss, as I understood, that might be a discussion which we need a couple of meetings to really engage in to find out what our role should be.

On the other hand, if the transition go through, and we all hope that, then the new process will actually be effective at the end of September. And we have been discussing a lot, and I think the whole GAC, if I remember right, think that we should be advising as much as possible. And we could already on the 1st of October be able to give advice. There might be a petition in -- during the autumn for one of the AC or SOs. So we ought to put into our procedures to try to work on the procedures. I think we can work on the procedures, how we will engage in the different stage. We do not need to discuss or decide yet what we do in -- in the last instant and level eight I think it was called at one time, because that is where we might go into a decisional part. And to what extent we're going to do that, whether it will be case-by-

case or we will say that in certain circumstances we will do that, I think that needs a lot of discussion.

So our view will be, let's work on the practical things. How do we step in and participate in the first steps of the -- the role that we will have. Whether it should be in -- in one group or another, we are flexible to that thing. The only thing we think would be important that we start the work in -- right away. Thank you.

CHAIR SCHNEIDER:

Thank you, Finn. And actually, I was thinking along the same lines, that that may be the -- the easiest or the most pragmatic is since we will not be asked to vote or not vote in the next few weeks, that we should build on developing the mechanisms first for where we agree on a more detailed level than where the -- the discussion or in other words, we shouldn't wait until everything is sorted out and start actually building these mechanisms. I think that's -- that's definitely a good way forward. But we also have to get that part clear in the end. So -- but I think Rome wasn't built in a day so start with the fundament and then build the roof at the end. That makes sense. Other comments or questions or views? Switzerland.

SWITZERLAND:

Hello. Good morning to everyone. Thank you for giving me the floor. I just wanted to throw in also another element which we may consider when developing the -- the conditions or the modalities how to participate. And this is that we -- perhaps this is a very pragmatic approach or so and not very imaginative, but I hope that practical because the idea to be based -- or to base on our experience as a chartering organization because it's one of the most similar things we have been doing. And I think we -- we got better at it as we proceeded in the -- as we advanced in the process. But in the end, if you look at the decisional participants in the empowered community and the chartering organizations in the CCWG accountability, they are almost the same. And the ways to participate will be to sit next and similar. And it's also very different to our other function, to the advisory function. It's a completely different field of action. But we have had already a two-year experience. So let's draw on that. And we have also, based on that experience, the guidelines for participation in CCWGs which, of course, it's not a one-to-one trans -- possible to be translated to this environment, but we can draw on that. And perhaps the one aspect which will be different and which might require some adjustments is the -- the timings because this -- sometimes the talk that the GAC is -- is very slow in reacting, but as a matter of fact, we were able to make a lot of inputs into the CCWG processes during 2015 and this year. So we have learned a lot how to do that quite swiftly.

So we should be confident that we -- we can do that also during the -- within the time frames set by the engagement escalation and so on procedures of the empowered community. But -- and this is true, perhaps we have to look into very clear time frames with silence procedures, procedures we use in -- in other organizations, perhaps with more efficient and lightweight decision-making processes for some of the steps to be really capable of taking actions. So that's from my part for the time being. Thank you.

CHAIR SCHNEIDER:

Thank you. And I think you raise a number of excellent points that for a -- we actually have been a decisional participant in the CCWG. We may not have realized it, but that's what we've been doing in the past two years, in the CWG and the CCWG. And I think a very important point that you're raising is the timing issue. Because we've been able to deliver positions and coordinate positions in the GAC in times that I don't think we've been able to do that before. And we will have to do the same because if you look at the deadlines of the escalation or the time frames in the escalation steps, they are fairly short, like one-month deadlines and other things. So we really have to -- have to have a structure that allows us, like give each other early warning that something may come up and then we have to be very quick. And the issue of the silent procedure I think is

something that we will not be able to do without. So we'll need to have something like a silent procedure.

UNKNOWN SPEAKER: (Off microphone).

CHAIR SCHNEIDER: I see Brazil, Canada, U.K., Argentina. Thank you.

BRAZIL: Thank you, Chair. Very quickly, I would like to second the distinguished delegate of Switzerland. We also agree that previous experience as a chartering organization, I think the GAC has shown that it can be an effective participant, decisional participant. So we have shown that we can make decisions, and I think we can engage in this community mechanism.

I also agree with the delegate from Iran and Denmark that we should not perhaps not rush in -- in making decisions with regards to our operating principles but I think we need to at some point make these decisions and have this let's say principles defined. So I would be in favor of defining a clear timeline -- deadline for us to have those principles defined. And with respect to participation in all those previous steps, engagement with the community and also in our advisory role in

those steps but also with regards to our participation in the voting step, in the last step of the community empowerment mechanism, I think we should work with a clear deadline with this respect. Thank you.

CHAIR SCHNEIDER: Thank you, Brazil. Canada.

CANADA: Thank you very much, Mr. Chairman. And I'll be very brief. We agree with the points raised by Denmark and we would also propose that once the criteria around GAC engagement in the empowered community has been finalized, that it be posted publicly to promote transparency around GAC engagement and the empowered community, which we believe would also be consistent with the ATRT recommendations. Thank you.

CHAIR SCHNEIDER: Thank you. I think that's a good point, and I'm sure that will be appreciated by the others, that they know how the GAC is intending to actually live its role as a participant in this empowered community. Next on my list is United Kingdom, Mark.

UNITED KINGDOM: Yes, thank you, Chair. I agree very much with the previous speakers. And what I'm in particular mindful of in terms of the community being made fully aware of what -- what the GAC is deciding in its modalities for participation is that when the escalation path does get to key decisional phases there will be votes with thresholds and that the thresholds will need -- you know, that there will need to be predictability as to whether the GAC is actually going to be one of the participating SOs and ACs to determine the application of the threshold for a decision. So very much agree with the point in particular made by Brazil. We need to work this through very carefully with a clear deadline to take decisions on how. Thank you.

CHAIR SCHNEIDER: Thank you, U.K. Argentina.

ARGENTINA: Thank you, Chair. I would like to support what our colleagues from Switzerland and Brazil have expressed. I think the GAC has gone through a process of participation that we have learned from there and we have done well. So we should have that in mind. And also, we should have in mind the multistakeholder process and a scheme that we all support. I think that we are in favor and we agree with that.

In that scenario, all stakeholders have a major role, all of them. So the role of the governments should also be relevant in all the processes. So I will stop here. We should have that in mind. That's my message. Thank you.

CHAIR SCHNEIDER: Thank you. Further comments?

United States.

UNITED STATES: Thank you, Chairman. And thank you to all the colleagues who have weighed in previously on this very important issue. The United States just believes that the GAC should not -- we do not support the GAC exercising in any of the community power in a decision-making role. We are able to consider the idea of the GAC participating in the community powers as a non-voting liaison, and we appreciate the ideas moving forward and we look forward in participating in this conversation as it progresses. But our position as far as exercising the community powers remains that we prefer the GAC remain in an advisory role. Thank you.

CHAIR SCHNEIDER: Thank you, United States.

Other comments? Questions? United Kingdom.

UNITED KINGDOM: Thank you, Chair. Sorry to come back in again on this point. There was another point I wanted to mention. That is, that these time windows in the escalation path may occur when we are not able physically to meet. So bear that in mind as well in terms of our agility and ability to react and provide a response. Thank you.

CHAIR SCHNEIDER: Yes. Thank you. You're absolutely right. And we had that before in the CCWG where we had public comment periods during -- intersessionally and we had to have telephone conferences. And we managed most of the time, Olga -- (laughter) -- when something is more controversial, it is more difficult so we need to keep that in mind. It's good that you raise it.

If you can lock people in a room physically, you can make them agree and not let them out before they agree. That doesn't work on a teleconference.

So there are limits to this.

[Laughter]

So this is not irrelevant. Thank you, Mark.

Yes, the gentleman in the back, please.

SWAZILAND:

Thank you, Chair. I'm Andreas Dlamini from Swaziland, GAC rep.

Chair, I support the GAC retaining power for the right to vote and take decisions in the community but probably something that we can (indiscernible) every day but have that right when things call for that, when situations call for that.

Now, it puzzles me a bit when -- I'm sorry that now I will be sort of mentioning but, you know, the position of the U.S. as we are in this period of transition, they've got some -- the U.S. government has got some decisions to make in the transition. And when they hold a position, as far as the GAC participation is concerned, I think it calls for them to sort of explain a bit more on this position that they are taking as to -- because we know still that decision is coming from their side.

Yeah, I think it would call for them to explain a bit more on why they taking this position as far as the participation of GAC is concerned. Thank you.

CHAIR SCHNEIDER:

Thank you, Swaziland. In fact, there is some diversity of views on -- we have some who would rather not go to the very end of

voting. Others don't see a problem in this. And the consensus middle ground was that we, for the time being, would not -- would keep all the options open and then discuss if and when and how we're going to use them.

So to sum up -- I don't know, U.S., if you want to react to the question by Swaziland. Thank you.

UNITED STATES:

Thank you, Chairman. Simply put, I believe this is a point that my predecessor has made before me and that the U.S. has been pretty clear on for some time now, is that if the GAC were to exercise any of the community powers, this would convert the GAC from an expert body providing public policy advice to the board into an operational role for which the GAC is not organized, in which the GAC is not likely to be effective.

I'm more than happy to continue this conversation offline with colleagues. But I don't believe this is a radical position or a surprise or deviates with positions we've taken for some time now. So thank you.

CHAIR SCHNEIDER:

Thank you, United States. Japan?

JAPAN: Thank you. With regard to the GAC participation to empower community, we believe that GAC should basically continue to play advisory role (indiscernible). That's why GAC should exercise its voting power as a last resort on the basis of consensus and case by case. And (indiscernible) itself should otherwise take into account maintaining this operation with the future of ICANN decision-making. Thank you.

CHAIR SCHNEIDER: Thank you very much. And, in fact, this idea of taking things on a case-by-case basis is something that is recurring, and that may be part of a solution in the end.

Iran?

IRAN: Thank you, Thomas.

Two issues which are connected together. Imagine that fundamental bylaw is put for approval. Part of fundamental bylaw directly relates to activities of GAC. If they want to change that where they see that is a danger for us, going to the concept of advisory capacity, we should remain silent and allow that that fundamental bylaw be changed and touches our positions?

Imagine also if the mission of the ICANN board or ICANN is changed in a way that touches part of the things that is public policy issue. Still, we should remain silent and not say anything because you're advisory?

Or this case-by-case is one of the important mechanisms that we have to see which cases really we need to react and which cases for us not to say anything because in the new bylaw, silence means neither pro nor against. So this is an issue, very important.

Another issue in connection of that is when we have consensus. In the description of the bylaw, it is mentioned that it is up to GAC to prevent that the whole GAC be captured by one single government saying that I oppose, therefore, there is no consensus. So we have to find a way how to do that.

This is not up to the other community. This is up to the GAC to decide. So that is a very important element. We have to see how to do that, whether that country that would not support the others who remain silent saying "I don't oppose that you proceed with that," but they don't participate.

So there are many important elements in this consensus building in the GAC because that is one of the major issue for us in the entire bylaw and in particular, when we go to the GAC advice to have GAC advice as consensus. If one country block

that, never we have any advice at all because that country blocked that. So we should avoid that. How to avoid that, we have to work it out.

The third element, Chairman, is reaction within the limited time, one month and so on and so forth. I see very difficult for GAC unless we have new mechanisms how to react within that limited time. If you wait for the next meeting, it's too late. Next meeting after that, petition comes. So we have to find a way when the question is raised and when we decide to participate in the decision-making, how quickly we could do that because there's no physical meeting.

My experience -- I may be wrong. Without criticizing anybody, it is very, very difficult for GAC to decide on virtual meeting, very difficult. One, very little participation. Two, no reactions to the question raised by the Chair or the people running that virtual meeting. And then postponing that.

When you postpone that, that means that the end, GAC will be considered as no views on that, so neither pros nor against the issue. So there are many important elements that we have to think between now and first October or whatever, if the transition take place. If it does not, I don't know.

But even if transition does not take place, the ICANN board has made it clear the overwhelming majority of those provisions in

the accountability will be implemented because that is a good work of 15 months. I don't know exactly what it is.

I think we have a lot of work to do between now and the next meeting, how to do it to have all these things. But most important for us is to avoid GAC be captured by one government. Thank you.

CHAIR SCHNEIDER:

Thank you, Kavouss. And as you say, what will take place anyway is the accountability reform. That is not dependent on any decision in the U.S. or national level. That is an ICANN internal decision that will take place. So we need to prepare anyway.

You raise a good point with regard to the consensus mechanisms that we have which is something that we have to start working on as part of the operating principles working group because we have some in how we work in our operating principles. And I think we should maybe use the time that we have to define how we would work on these issues. And we will probably never get to more than a compromise between those who prefer to be rather active or -- and those who prefer to be rather closer to the role that we used to have, vis-a-vis the board.

We also have to see that this is a different process that is new. The empowered structure is not something that is comparable to -- what we've been doing now is advising the board on issues. This is a new process where everybody has a new role. Also, the others have new roles in this process. But we may -- following Denmark's idea, we may build on criteria for participation and approach us to a GAC-internal decision-making process on issues, also built on what Switzerland and others have said, building on how we've worked in our decision-making, on our input into the CWG and CCWG. And there have been some good practice examples in this work, also in short time lines, also in intersessionally.

The more controversial something is, the more difficult it is. But not everything is so controversial that intersessional procedures may not work. So I think we can build on some experience.

I don't know. Maybe, Tom, you have some ideas to propose that you could get the ball rolling with regard to -- I like his face when I call him like this -- with regard to starting to get into pragmatic steps ahead with regard to what could be the criteria looking at each of the steps of this escalation mechanism and trying to get us to a clearer pragmatic understanding what could be ways to participate in step one, step two, step three, and so on and so forth. And also look at our text and our experience how we worked in the CCWG, distill the elements that were guiding us in

this work and form this in a first zero draft whatever concept of our participation. Would that be -- Yes, thank you, Tom.

TOM DALE:

Thank you, I think, Thomas.

The outline of the issues that we in ACIG undertook and put in the brief was based on, you know, a continuing involvement in the development of the bylaws. Not as extensive as many of the GAC members, but nonetheless, we've got a good grasp, I hope, of the -- both the legal requirements but also the political and policy issues as well.

It would certainly be possible to take the mapping documentation and the outline in the brief that we prepared for this meeting and use that as the basis for a set of principles, as has been suggested by a number of members, and also to look at a potential time line and operational issues for the different phases in the escalation process of complaints and objections within the new process. That can be done.

However, from a point of view of simply getting work done within the GAC and proper process, I think we as the secretariat would find it extremely helpful to have the guidance and, indeed, oversight of a small group of interested GAC members to assist with that.

I suppose a drafting team is the sort of thing that I'm suggesting.

We can certainly provide that support and, indeed, do the drafting, but it would be better, I think, if that were guided by a group of GAC members who are able to work with us and to give us direction and, indeed, to stay in touch with the rest of the GAC as this very important issue develops between now and the next few months.

So I guess that's a long way of saying: Yes, we're happy to help.

CHAIR SCHNEIDER:

Thank you, Tom, and we're happy that you're happy to help.

And I think, yeah, it would be good to gather an informal team supporting Tom on this and sharing your experience from the discussions that we've had on this so far.

Brazil.

BRAZIL:

Thank you, Chair. I would like to thank the colleague from Swaziland for raising the question, the very important question, because somehow I have the feeling that we are going back to the discussions we have held in Marrakech and, like, discussing issues that were already settled by then. So I think we should now look forward, based on the decision that we have made. It

was a decision very difficult to reach, based on concessions from all sides. So I think otherwise we will be reopening issues that we -- have already been settled.

So the decision was that the GAC accept its role as a decisional participant. Now we need to discuss how we will put this in practice. But there is a decision that we will be a decisional participant, and that's settled. I think no discussion about that. Thank you.

CHAIR SCHNEIDER: Thank you, Brazil. Iran?

IRAN: Thank you, Chairman.

I think we need to exactly read the communique, what we said. We have not said as Brazil said. This is not in the communique. There is a qualifier.

So we have to read what we have agreed exactly. We don't want to create a decision among the GAC. We have to maintain the convergence that we had, and we have to stick to the text of the communique, and the text of the communique is not exactly to what was said. Thank you.

CHAIR SCHNEIDER: Thank you. I think we all agree that we should move forward and not reopen things that were closed, but of course diplomatic language is diplomatic language and there's always some room for interpretation, but I think the point is that we should build on the common ground and start from there, and the divergence will then move to the edges, which is natural, but I think this is the way to proceed.

So I think we agree that we -- we note that we don't agree on all the details, but that's life and we build from the commonalities and...

Yes, Switzerland.

SWITZERLAND: Thank you very much for giving me the floor.

Perhaps in this vein of looking forward and being pragmatic, once again, I think that we have in the new bylaws, which will enter into effect in October, I guess, if -- whether the transition takes part or not, the -- this is part of the accountability reforms, and in these bylaws and in the procedures set out, we already have the time frames.

So what we have to do is to adjust how we participate within these time frames, and that's one part of our business and we can do that.

And it's -- I think there's no issue in that, because we have agreed many, many times that either advisory or decisional, we will participate therein.

So that part, that we participate and how -- how we participate, in what time frames, we can do. We have to map the -- the bylaws into our working procedures and into the operating principles, if need be.

And then there is the other question, and, well, we could all read what we said in Marrakech but we said something like "We express our willingness to participate as a decisional participant under conditions to be determined internally," which is, once again, one of these beautiful diplomatic languages and wordings we like to use here in the GAC, and -- but also in other constituencies of ICANN, if you just take a little bit of time to look at the wording.

So there's a willingness to be a decisional participant and conditions to be determined internally.

And also, piggybacking on what our Danish colleague said before, while the issues are -- on what the conditions have to be, if they are very, very strict, then we will only participate as a decisional participant in a small percentage of cases or not the issues at the very last stages. There was a time when we had in this engagement an escalation mechanism, like nine steps. I

don't know how many steps they are in the end. I haven't counted them. But the issue related to the last steps.

So the issue of contention.

So I think that we can map the procedures. In the first steps, we shouldn't have an issue because there we are not deciding things; we are really participating in a conversation with the rest of the community. And when we have all this on paper, we will then have to decide, okay. And this last decision on whether at Step 7, 8, and 9 we are decisional, whether our voice counts or it's only a voice, what conditions we attach to this, we will have to discuss.

But I think we should focus things and be pragmatic and go as far as possible and really limit the fields or the topics where we have disagreements and where we have to work out solutions to what is really necessary and not reopen everything because that wouldn't really make sense. Thank you.

CHAIR SCHNEIDER:

Thank you, Switzerland.

And I think a good point is also what Iran has mentioned, that we -- like we are trying to follow how the GNSO is doing this. I think of particular interest are the other advisory committees, in particular the ALAC, because as Iran has said, that's probably the

closest to our situation in terms of our role in ICANN, with some differences as Iran has mentioned.

Other input? Questions? Pragmatic proposals?

Yes, Indonesia.

INDONESIA:

Just a short question for you, Tom.

I think we are -- basically I agree with what Iran mentioned that we have -- we need to meet, you know, face-to-face. I mean, as a matter of fact, I asked several of our colleagues here what you mean by this, what you mean by that, really, you know. With this, you can -- I can do that by email, but it's different.

But what I would like to know, what's your -- how you make the approach for decision. Like what you mentioned, you -- we agree that we cannot fulfill everybody's -- what everybody wants, but we share the commonalities of the GAC to get a decision.

But it is -- I basically agree with what you mentioned, but if there is -- but if there is a problem where a particular countries -- country or some particular countries really have a strong disagreement, then I think we should consider this, and I think we have done this many times before.

We have a problem of .SPA, .ISLAM, for example, the use of .ID for (indiscernible), you know, GNSO, other that we do not want. We use .ID for Google, perhaps it's okay, but -- or if .ID.LGBT might not be okay in Indonesia. You know, that's things that we have to consider. A strong -- particular strong disagreement from one or many -- several countries. Thank you, though.

CHAIR SCHNEIDER:

Thank you, Ashwin.

Well, I think let us -- obviously we -- nobody is planning to deviate from a consensus-based approach in the GAC. We are now forced to redefine or tweak our working principles and operating principles, in the sense that we may be -- have to be clearer than we have been before whether something is -- a decision is based on full consensus where nobody objects, whether something is based on a -- on a strong consensus or whatever, or whether there are totally divergent views. We will need to qualify more when we say something, in particular, with regard to an advice how the -- the -- the views are -- or how united the GAC is on something, whereas that was not formerly required so far.

But we did it -- we did it in the past as well. What we -- what we were formerly required to do in the case that there was no consensus that the GAC chair would have had to reflect all the

views, the diversity of views, which is what had been done, but the notion of consensus was not defined in that sense, or not defined in -- on the bylaws level, at least. And I think as the -- as the recommendation of the CCWG proposal that is related to GAC consensus gives us some scope to deal with what Iran has said, to try and prevent one country or a very small number of countries to block a decision or an opinion of the GAC forever, we have to spend some time on how to make that workable. I think we all agree on the -- on the concept. We may have to fight for agreeing on something that is actually then turned into a mechanism.

So there's work ahead, but, yeah, I think we -- we have heard each other, we know what is to do, we know where we agree, we know where we may have different expectations or interpretations, and I think we just need to start doing the work and then sort things out as they appear in the discussion.

So unless there is a -- there are more people who want to take the floor, we then maybe move on to the next session. I have -- I see the U.K. and Iran. Thank you.

UNITED KINGDOM:

Yes. Thank you, Chair. I thought it might be just useful to remind ourselves that when an issue is going through an escalation path, it's going through different steps, you know. So

it's not like an issue will suddenly come out of the blue and then we have to decide, you know, as a decisional participant.

There will be a long -- I don't know how long, it may vary considerably.

CHAIR SCHNEIDER: There will be 347 days, the whole process.

UNITED KINGDOM: There will be a forum phase where we will be actively engaged and also obviously then the GAC discussing, considering, trying to work out an alignment of a position.

So there will be plenty of opportunities to try and resolve differences of position. So I add that as a point of optimism. But when I mentioned earlier that some windows for decisions are going to be happening when perhaps there is no physical meeting, that's just one part of the escalation path. And there I think we can, you know, be agile. As you've said, we have some experience of being able to take a decision. But there will be a longer phase or set of phases before that.

I hope that's helpful. Thank you.

CHAIR SCHNEIDER: Yes, it is, actually.

And as you say, there will probably not be surprises. And the process is actually set up that way, that these things take some time to discuss and think. And we will have to anticipate and we will be able to anticipate that in case something would go more steps up, then you organize yours in a way that you try to do whatever you can do. Discuss controversial things in a physical meeting in order to prepare for, in case, blah, blah, blah.

And we also, we don't know whether -- I mean, these are, let's say, escalation mechanisms. So I think one of the intents or purposes of these escalation mechanisms is actually also to have them serve as a disciplinary element that we may never have to get to a stage to actually have to apply them. So this is also something that actually has an effect; the fact that the mechanism exists has an effect on the work ahead. And if people are conscious of this and you actually work in a way that you try to avoid to have to use these mechanisms. So we will also have to take stock at some point in time, after two, three years, how many cases we have actually had.

So I think we shouldn't hyperventilate in the dark for no reason. Of course we need to prepare, but, yeah, let's adjust our expectations and hopes and fears, also, on an actual basis of how much, how many issues do we talk about that may enter into this process at all? And how many of them will actually end up in a final stage? Maybe it's none. Maybe it's a few. We'll see.

Thank you very much.

So I think Iran was the next one on the list.

IRAN:

Yes, Chairman. The first thing we have to do, we have to translate the part of communique in Marrakech relating to this issue.

The GAC willing to participate in decision-making under the condition yet to be defined. So we have to define those conditions.

The reason I asked the floor was not this. It's the following one that we have not been discussed.

Suppose that condition are specified, and now we have to participate based on those conditions in a particular issue.

If there is a virtual meeting, the problem is to have consensus in a virtual meeting, as far as I experience in other U.N. organization, is very difficult because you don't know the one who participate has any authority to express the views of that particular government, nor the (indiscernible), unless you specify in that particular meeting that the purpose of this meeting is to consult various GAC member on this issue;

therefore, the person who speaks or who send the email has this authority. Otherwise, you may face a difficulty.

We had this exactly in other U.N. organization. That is why email voting and virtual voting in particular issues like this is not authorized. You need to have a specific authorization or delegations. If you are physically meeting, no problem. The delegates who speak as a GAC member, he has this delegation because he is physically, but the one who is on the email, he might be someone else.

So that is an important issue that you need to take into account if you face that problem in future.

Thank you.

CHAIR SCHNEIDER:

Thank you, Kavouss, for raising this. And of course you're right. On the other hand, there is technical progress and there are new ways of buying things, of making contracts compared to 20 years ago. And of course these are serious issues and we shouldn't be too loose with these things, but I think if this is properly prepared and communicated and GAC members are aware of what would be required for them to actually have equivalent rights or authorizations, in the end, if you need an authorization, you need an authorization whether you take the

decision sitting behind your computer on the phone or sitting somewhere at the other end of the world in a room.

The idea is the same. We just need to adapt, also, and there may be some work that needs to be done internally in every country's administration, that we may need to fight for having these authorizations for a teleconference. But that is once this, like, technological shift has happened, I think that will become normal.

The only thing that you cannot do, you cannot physically lock people into a room and physically force them to agree on something if they are not in one room. That is the only difference I see, which is a difference, but all the rest, may be work to do but it is not impossible to sort out.

I think time is up for now. That was a constructive discussion. We have a lot of work ahead of us. Tom will help us with this, and everybody is invited to support him, to support us. And so I'm looking forward to us making progress on this.

Maybe one word about the Customer Standing Committee. To benefit also from the fact that we are gathered here physically, maybe we could sort out in one minute the question whether or not we have -- we would want to have a liaison. That is something that I think, since I have not heard any objection to it, could we quickly validate that we are planning to appoint or to

propose one or two liaisons to the -- to the PTI structure? I think it's the CWG who has been asking or the ICG who has been asking us. So that we will that we will spend the next two weeks after this meeting in trying to see who that will be but that we can take the decision now that there will be a GAC liaison to this CSC.

I see people nodding. I see no objections. So that's done. Okay. That's the advantage of physical meetings; that you can do -- when there's agreement, you can do things rather quickly.

Thank you very much.

[END OF TRANSCRIPTION]