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MARRAKECH – Fellowship Daily Session  
Monday, June 24, 2019 – 12:00 to 13:30 WET  
ICANN65 | Marrakech, Morocco

UNKNOWN SPEAKER: 24 June 2019 ICANN65 Marrakech Diamant 12:00 to 13:30. That is CET Fellowship Daily Session.

SIRANUSH VARDANYAN: We'll have only a few minutes to finish our lunch, please. I don't want to push hard. That's why I always allow you [inaudible] on time so you'll have full 30 minutes to enjoy your food, but you're always late.

RECORDED VOICE: This meeting is being recorded.

SIRANUSH VARDANYAN: Okay, we are good to go, huh? So, first of all, welcome everybody to ICANN65. This is our first session. 32 fellows made it, so my congratulations to all of you and I hope you will enjoy the entire week here, The Policy Forum. Before we move to our first presenters for today, I would like to introduce also our colleagues from Ombudsman team, Barbara and Herb. Please stand up. Yes, they like to come to our sessions and meet fellows so if you have anything to tell, to report, to complain, these are the people to go and talk to. Thanks for coming.

Also, you have your own agendas, worked with your mentors. You also have the agenda sent by me, the PowerPoint presentation which you

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have the slides there. All links are working so you can go take time to view them, to learn more, to refresh your memory because all of you are Alumni's of the program. You don't need to be, like, approached as newcomers but you are the ones who can help the newcomers here. So, please take this time to learn more, to get better understanding of the communities you want to be engaged in or you are already a part of. So, make full and productive week for yourselves as well.

With that, I will do a couple of logistical announcements ambient of today but before that we will start with a presentation and today, the first day of Policy Forum, we have Policy Team coming and talking to us and I would like to introduce Carlos Reyes and Ozon who are here to talk to you about the important Policy Work in ICANN. As many of you know that this one of the key aspects, if not the most important work in ICANN. So, these people are gurus in policy and will tell you where are the steps to be taken and what are those steps to be taken by the people who are coming to ICANN and how they can learn more about the policy work. With that, Carlos, the floor is yours.

CARLOS REYES:

Thank you, Siranush. Hi everyone. My name is Carlos Reyes. We'll be joined by our colleague Mary Wong in a few minutes, but just to give you a sense of our plan for this session. I'll give a very brief overview. I know most of you, actually all of you, are Alumni so you've been to other ICANN meetings. There are a few pop-quizzes in my presentation, so I will look for your input. And then Mary will go over in more detail some of the Policy Development Processes that you will see this week, and

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then Ozon will give you an overview of the rest of the meeting and what is happening here at ICANN65.

So, before we start I always like to get a sense of what questions you have right now about Policy or Policy Development at ICANN. So, that way I can make sure that we address that in our remarks. So, I'll pause here to see if there are any initial questions; things you've observed, things you don't quite understand yet, or just any general queries.

You're very quiet. Well, you're eating. Yes. Closer? Closer? Okay, that there's a... okay. No questions?

SIRANUSH VARDANYAN: Please state your name at the beginning, as a reminder.

RUDOLPH DANIEL: My name is Rudy Daniel and I'm from the Caribbean, Saint Vincent And the Grenadines. Principally, I kind of, I'm with Civil Society by choice. Universal Acceptance has been spoken about quite a lot. This morning I heard a lot about it, too. I just wanted to know is there, it's good to talk about it, but how do we measure the progress of Universal Acceptance? That's one of the issues that I have about the Policy. Yes, we have the Policy but how do we measure it as we move along?

The other thing that I had that I really am not totally, sort of, up to speed on is the Human Rights in ICANN and how far have we got in the Policy Process centered around Human Rights and not only at icann.org, but,

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you know, as it relates to the community and the various sort of Policy Processes that are going on. Thank you.

CARLOS REYES: Any other initial questions?

SIRANUSH VARDANYAN: Just one second intervention. We do have interpretation for our sessions in French and Spanish so please take advantage of it.

CARLOS REYES: Okay, in that case, let's go ahead and get started. So, I already overviewed the agenda. The three parts of ICANN. I'm sure you've heard about this before. The ICANN Eco-System is comprised of the Community, which is really the core of the ICANN Eco-System. This is where our policies are developed. And then the Organization to support the Community, and the Board, which oversees the Organization and reviews the Policies of the Community.

So, pop-quiz. You are all Alumni so I'm hoping this will go quickly. What is a Supporting Organization? That's the first question. Anyone want to answer? Any ideas?

SIRANUSH VARDANYAN: Hey, Supporting Organizations. Anyone wants to take the first chance to talk? Don't be shy, guys.

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CARLOS REYES: If you don't know what it is, how many are there? Maybe that'll help. I heard the answer.

SIRANUSH VARDANYAN: You have the mic, Lilian.

LILIAN IVETTE DE LUQUE BRUGES: Lilian speaking. GNSO, SO, ccNSO.

CARLOS REYES: Those are the three. So, what are they? What do they do?

SIRANUSH VARDANYAN: You have mic, Lilian.

LILIAN IVETTE DE LUQUE BRUGES: The country code has to do with the name of the country names, and then we have the generic names on the ASO. It has to do with RIR's right?

SIRANUSH VARDANYAN: French, you should take the headsets as well to understand what our colleagues are talking about. Okay?

CARLOS REYES: So, that was great. Yes, so the Supporting Organizations develop Policies. And we have three. One for the country codes, one for generic

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codes, code names, and then IP addresses which are managed by the RIR's. So, very good, thank you. I appreciate the answer.

I'll pause for two seconds to get people to come back with their headsets and then we'll talk about the Advisory Committees which is the next set of questions. Gives you time to think.

LILIAN IVETTE DE LUQUE BRUGES: Lilian speaking. At-Large is the Advisory Committee. NARALO, EURALO, and RALO within ALAC right?

CARLOS REYES: Yeah, so that's one Advisory Committee and then there are five parts. So, you get extra credit. What about the three other Advisory Committees?

LILIAN IVETTE DE LUQUE BRUGES: Another one is Government Advisory Committee.

CARLOS REYES: Yes. Okay, so we have two. At-Large and Government.

UNKNOWN SPEAKER: RSSAC.

CARLOS REYES: Okay, and what is the RSSAC?

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UNKNOWN SPEAKER: RSSAC is the Security Advisory.

CARLOS REYES: Okay, I heard it across the room, so it sounds like we're all on the same page. That's the Root Server System Advisory Committee. And what's the fourth Advisory Committee?

UNKNOWN SPEAKER: SSAC. So, Security and Stability Advisory Committee.

SIRANUSH VARDANYAN: If you switch on your mic, only two mics can work at the same time so switch off, Abdeldjalil. Thank you.

CARLOS REYES: Awesome, thank you. So, that was great. So, the three Supporting Organizations and four Advisory Committees and we defined the four Advisory Committees. So, that's great. So, let's take a step back. What do Advisory Committees do? Go ahead.

UNKNOWN SPEAKER: So, Advisory Committees advise the Board. The Board can either reject or accept the advice so it's not necessary that policy will be implemented by Advisory Committees.

CARLOS REYES:

Okay, did you look at the infographics in the Conference Center? No, okay because that's very similar language to what we use. Yes, the Advisory Committees advise the Board. They also advise the Community. They advise the Supporting Organizations. So, really, it's in the definition there. As I mentioned, my colleague Mary Wong just joined us. So, you'll have the three of us today. So, let's continue here. Thank you for participating in our first pop-quiz.

Alright, so, you didn't... We have some questions from the gentleman over here, but these are some frequently asked questions and Mary helped develop these slides, and you may have similar questions based on what you hear at this particular meeting. So, we'll go through the first question here. What is a Cross-Community Working Group and how does that fit within ICANN Policy Development?

So, in the last few years, we've seen a trend within the Community where we have Cross-Community Working Groups. And that means that two or more Communities are involved in the same issue. But, if we look at the answer here it's important to note that a CCWG does not make Policy. So, they work across... They work with other groups on a particular issue but that issue typically does not fall within the remit of any single one group. So, when you have an issue that really impacts a lot of different Communities, that's where you see the Community Groups getting together and forming Cross-Community Working Groups. So, we wanted to highlight that here because you'll hear Cross-Community Working Groups occasionally.



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There aren't that many active right now. Probably the one you'll hear about the most is a Cross-Community Working Group on Auction Proceeds and that's a Working Group that's developing the, sort of, framework for how Auction Proceeds from the new gTLD Program will be managed. So, let's move on to the second one. Actually, first, any questions about Cross-Community Working Groups? Go ahead.

TOMSLIN SAMME-NLAR: What happens with the output from -- Tomslin for the record -- What happens with the output from the Cross-Community Working Group? Where does it go to?

CARLOS REYES: So, that's a very good question. What typically happens, a Cross-Community Working Group has chartering organizations. So, let's say the SSAC, the GAC, and the ccNSO decide to put together a Cross-Community Working Group. Once that group is done, their output goes back to those organizations and those organizations have to approve it. And then the Cross-Community Working Group typically presents the report to the Board as well. Mary, do you want to comment further?

MARY WONG: Sure, and hello everybody. I'm Mary Wong and as Carlos said we work together on the Policy Team. So, just to add to what Carlos said, going back to the first point that a Cross-Community Working Group is not a policy-making body. So, it doesn't develop Policy, it doesn't give advice on Policy, even when this charter says you produce the report to the

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Board, it is not necessarily mandatory in all cases that the Board has a role to approve or to implement. It really depends on the charter and the nature of the work. So, there are differences in how the groups work and it really is important that because it doesn't make Policy, it doesn't go through that Bylaws process where the Board has to approve, and it becomes consensus Policy, which we will get to next.

CARLOS REYES: So, thank you, Mary, for the... Oh, sorry. Go ahead.

RUDOLPH DANIEL: Rudy Daniel. I'm Caribbean. I just wonder whether or not it's of interest to just to say that the Cross-Community Working Groups actually started before the transition and were responsible for a great deal of the work that actually, you know, resulted in the transition from the U.S. Commerce Department to the Community of ICANN.

MARY WONG: That's an excellent point and thank you for bringing that up. And you're absolutely right. The concept of a Cross-Community Working Group in the ICANN context predates the transition. I think most people, especially since you're returning fellows, you're very familiar with the big Cross-Community Working Groups we had the during the IANA Stewardship Transition Process, like the Cross-Community Working Group on Accountability. But it is important to remember that it's not new. It's not because of the transition that we have these Cross-Community Working Groups.

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If you go back to some of the history of the GAC, or the GNSO, or the ccNSO, there have been several instances of very successful Cross-Community Working Groups even before that. And one that I can think of that may be of interest to some of you is that between the ccNSO and the GNSO, there was a Cross-Community Working Group that worked on Joint IDN Policy. Not Policy I'm sorry, excuse me not making Policy; who worked on Joint IDN Recommendations and that rolled over into further IDN work by the Community. So, thank you for that.

CARLOS REYES: Okay. Any other questions about Cross-Community Working Groups? So, Mary alluded to consensus Policy. Oh, yes. Go ahead.

ABDELDJALIL BACHAR BONG: Hello, my name is Abdeldjalil and my question has to do with Cross-Community Working Group. So, we have a Cross-Community Working Group on Internet Governance. I think that there was something done with the ccNSO. So, can we talk about Cross-Community Working Group in that case? Do we have the support, and can we say that this is a Cross-Community work in that case?

CARLOS REYES: Can you repeat your question please?

ABDELDJALIL BACHAR BONG: So, my question is if you take an example of a Cross-Community Working Group, you have the one about Internet Governance and over

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the past few years, the ccNSO came out of that group on Internet Governance. And so, in that case, does that add more weight to these Cross-Community Working Groups if, you know, somebody, if a group comes out of that group do you actually have 100 percent support. Can we say that?

MARY WONG:

I love all these questions. They're really good and very, very current and they hit on exactly some of the issues and topics that the Community itself was dealing with. And this particular one and the other two that preceded it, really led the Community to create something that we haven't mentioned; a framework of principles for the formation and the operation of Cross-Community Working Groups, and we can send you the link to that if you're interested.

So, the early Cross-Community Working Groups, they had charters. They had, you know, sign-offs from the organizations but they weren't always consistent. So now we have a consistent set of principles. The example that you raised, the Cross-Community Working Group on Internet Governance, is actually a really good example of a few things.

One is, as you said, one or more of the original chartering organizations withdrew, right? So, the ccNSO is the one that you mentioned. The GNSO is another one that also withdrew. So, when this Cross-Community Working Group started, it was I think three or maybe four chartering organizations including the ones that we mentioned. Over time, the two of these groups felt that it wasn't an effort that they particularly considered priority work for their groups, but it's important

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to remember that for this group and for the other groups, even if a chartering organization withdraws, it's individual members can still join. Right, so you're just not representing the GNSO, ccNSO.

The issue here is something I won't go into, but ultimately as a result, that Cross-Community Working Group on Internet Governance is now a Cross-Community Engagement Group. Simply because there's only one chartering organization remaining. And so, the framework of principles that I referred to requires that for a Cross-Community Working Group, because it's Cross-Community, it has to be more than one chartering organization. So, there's a better name change.

To your question about the weightiness of the recommendations, there's no hard and fast rule about that. I'll go back to the point I made earlier that it really depends on the nature of the group and the work and the preferred outcomes. Some of the other groups, I'll go back to Cross-Community Working Group on Accountability, had a very clear timeline, it had a very clear set of deliverables that it had to deliver because of the transition. In contrast, for the Internet Governance Group, it's more of an ongoing group so its outcomes aren't necessarily final in any one sense. So, it's a lot of this about what the scope of the group is. It's not necessarily about the value or the weight of something that comes out because some groups may not actually have that final drop-dead date. If that helps.

CARLOS REYES:

Go ahead.

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ABDELDJALIL BACHAR BONG: I'd like more details. For example, and if I understand it correctly, the members are named to be part of such-and-such group. So, these members of the ccNSO, they can stay in the conversation but not as members but only as participants.

MARY WONG: So, I'll try and answer that question. It does get a little bit into some very more specific details of the Cross-Community Working Groups, so we can continue the conversation later. You mentioned members and participants. In that framework of principles that I referred to that the Community now has, there is indeed a distinction between who's a member and who's a participant. The basic distinction is that a member has to be appointed by a chartering organization, more or less. However, even though a participant may not be appointed, may not be truly representative, how they participate is with the full participation rights as any other member. One difference is that, generally speaking, because charters can all differ, this is the template and they customize according to the group, but generally speaking members can vote on the results, participants cannot. That's the distinction and I'm happy to continue the conversation later.

CARLOS REYES: Thanks, Mary. Mary was the Lead from our team in putting together the framework for Cross-Community Working Groups but what's important to note and I think some of your questions are getting at this, the

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Community and the issues of the Community is addressing, or are addressing, they keep evolving. So, how the Community organizes and how the Community works keeps evolving as well. So, I think it's important to note that.

So, let's talk about consensus Policy. So, you'll hear this term, especially here at a Policy Forum, but consensus Policy is really the result of a GNSO Policy Development Process and it has certain voting thresholds, both within the Council and the Board. I don't remember the thresholds off the top of my head but it's very explicit in both the GNSO Operating Procedures and the ICANN Bylaws. Because then it binds that consensus Policy is binding on ICANN and the ICANN Contracted Parties. So, any questions about consensus Policy? Yeah, okay.

MARY WONG:

So, just to follow up on that, Carlos you mentioned the Bylaws and so if you do look at the ICANN Bylaws, you will find, towards the end, that there's some annexes that describe the Policy Processes of each of the three Supporting Organizations, including the GNSO, which you mentioned, the ccNSO. There are some differences in the Procedures because they're different groups and they work differently, but ultimately all Policy Recommendations do go up to the Board for adoption and as Carlos says, there's certain voting thresholds at each stage that must be fulfilled before something becomes a consensus Policy.

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Where the GNSO is concerned, and I'll just give one, you know, very general description, if the GNSO Council, which is the manager of the GNSO Policy Process, if they pass Policy Recommendations by what is called a Super Majority Vote, then in order for the Board to reject the GNSO Policy Recommendations, the Board has to do that rejection by a two-thirds vote of the Board. And this is because of the bottom-up consensus Process. The fact that you had a consensus Recommendation from the GNSO that reached, not just majority, but Super Majority support, if the Board says, "We're going to reject it.", the same threshold is required to do that and there is only one rationale that the Board, I'm sorry not rationale, there's only one circumstance that the Board can do that and that is if the Board says that it doesn't believe the consensus Policy Recommendation is the best interest of ICANN or the ICANN Community. That is the only reason. It's written down in the Bylaws. And if the Board were to do that, it has to develop a written rationale and send it back to, in this case, the GNSO and then there will be engagement and discussion between the GNSO and the Board that could possibly result in a modification of the original Recommendation. But it is really important to understand that the voting thresholds are there not just because of some sort of administrative idea, but because they really do represent what the consensus Model is in this Community.

SAM GOUNDAR:

Hi, Mary. I'm Sam from Fiji. Has the Board ever done that? Can you tell us the story?



MARY WONG:

How much time do you have? Well, it's a really good question because that's actually a topic that the GNSO is discussing this week. Because you may have heard of the EPDP, the Expedited Policy Development Process that went through Phase 1, completed Phase 1, came out with 29 Policy Recommendations. The Board recently accepted 27 and did not accept 2, or parts of 2 depending on how you describe it.

So, the Board then said to the GNSO, "We don't think this is in the best interest of ICANN and ICANN Community. Here's our rationale. Let's engage in that discussion." All this is according to the Bylaws Process. And in fact, the reason why I was late is I was at the Board Meeting with the GNSO Council is happening right now where they're starting this discussion. So, I am glad you asked that question because I think it illustrates how live a lot of these so-called process issues can be and at this point we don't know what the outcome of the Board GNSO discussion will be. It probably will not be concluded at this meeting, but it could be something very interesting to follow to see whether the GNSO decides to stick to its original Recommendations, and says, "We're going to send you back up exactly the same package as you got the last time.", which they can do. Or the GNSO basically says, "Well, you know what we've engaged in this the new circumstances. We hear you. We're going to modify our Recommendations." And then that goes back up to the Board and the Board then considers if it wants to adopt the Recommendations. So, basically, it's a watch this space. It's pretty exciting.

CARLOS REYES:

Okay, let's move on to our second set of FAQ questions. The first question here is about the GAC and how it fits into the Policy Development Process. If you have a chance to go to the main entrance of the Conference Center, we have these very large infographics that explain the Policy Development Process for all three Supporting Organizations and also the Advice Development Process for the Advisory Committees.

But the GAC, in terms of Policy Development, there are certain instances in the GNSO PDP where the GAC is, or where the GNSO Council has to specifically consult with the GAC. That's also the same with the ccNSO Council. And then within the Bylaws, the GAC advice receives a special treatment. So, anything that, when the Board wants to consider GAC advice or reject GAC advice, as Mary mentioned, there is a separate process where they have to engage directly with the GAC and discuss that. Anything you'd like to add, Mary? No? Any questions about the GAC? Yes, go ahead.

SAM GOUNDAR:

Sam here. My question is not about the GAC, but as mentioned by Mary, then if PDP have announced that the 29 Recommendations and two are rejected by the Board, if the Board rejected this who is the [inaudible] who decide whether to adopt this Recommendation or where? What is the role of this group that Community are following. So, my question is does the voice of Community count for the Board if some

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representative group have to recommend some issue and the Board is rejecting them?

MARY WONG:

So, I'll start but I may have misunderstood the question. I think Carlos has some thoughts as well. And I'll start with some process without going into all the details of the Bylaws because that would be really boring afternoon for you. All the Policy Recommendations that go up to the Board do go through an extra Public Comment Process. I think you knew that, right? And the Board does take all those comments into account in making this decision. That's number one.

And of course, number two, the Board has to have the rationale that I mentioned. It has to engage in discussions with the GNSO so that is a lot of discussion engagement back and forth between the Board and the GNSO in that very exceptional case where this happens, and ultimately obviously, the Board does the best it can, right? That's a certain role for the Board within the ICANN Bylaws. It has to act in the best interest of ICANN and ICANN Community. That's why the only reason they can reject PDP Recommendations if they think it's not in the best interest of ICANN, the ICANN Community.

In the extreme case, and this may be going beyond what we want to talk about, but in the super extreme case, where the Board, you know, "goes rogue", right, and the popular parlance does things that the Community thinks is beyond it's remit or absolutely reprehensibly wrong, that's not in the Bylaws I just made that up, but as a result of the IANA Stewardship Transition, we now have this structure called the

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Empowered Community. The Empowered Community can fire the whole Board, or an individual Director. So, maybe we didn't want to go there but I just thought I'd put it in.

CARLOS REYES: Go ahead. Follow up and then over there, and over here.

SAM GOUNDAR: If I'm not wrong, the Board have in the case of the PDP Recommendation, the Board have rejected the two Recommendations of PDP based on GAC advice. If I'm not wrong. Because GAC members had advised Board to not... So, this would put me to give the question, did the members of GAC in the PDP Team, are they a Representative of the Advisory Committee or not because they participate on the work of the PDP Team and in other phase the GAC has rejected this Recommendation.

MARY WONG: Wow. Tough crowd. So, you've touched on something that was one reason why we put this FAQ question about the GAC up there. Because the GAC does have a very unique position amongst even the four Advisory Committees. And the GAC's remit is to provide Public Policy advice to the Board, or advice on topics of Public Policy. And, as Carlos said, that the Bylaws actually direct how the Board considers GAC advice. I know that wasn't your question.

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Your question basically, if I can repeat it back and you can tell me if I've got it right because I'm not sure. I'm just talking. I'm not sure if I have an answer for you, but it's the GAC Representatives that participated in the EPDP, those two Recommendations were the product of a consensus Process within the EPDP. Why and how would the GAC come up with contrary Public Policy advice, which the Board then rejects. Is that correct?

Yeah. So, I'm going to cop out here a little bit and say there's a bit more to it than that. But ultimately you have to remember that the consensus Process involves a lot of compromise and a lot of negotiations. And I think there's a few of you who are experienced in the PDP may be bruised by some of the battles. And, the other thing I'll say is that, you know, it has been difficult in the past for the GAC to participate in the GNSO PDPs because it has been difficult for the GAC to say, "We've got someone that represents us."

But, in the case where the GAC does want to participate and finds representatives, the EPDP is one example. Work Track 5 on Geographical Names for the new gTLD Subsequent Procedures PDP is another example. That person or persons is one or two in this case amongst several other groups of representatives of different interests. So, that's number two.

Number three, you've got to remember that the consensus Policy outcomes do not have to be unanimous. There is a threshold within the GNSO about what is or is not consensus and it's very clear that consensus does not have to be unanimous. So, there's a lot of back and

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forth. It takes a lot of time, but the GAC as an Advisory Committee has every right to take a look at the result and say, “Here’s why we think”, you know, “this particular result isn’t consistent with Public Policy.”

It’s not contrary to the position it took in the EPDP because if you’ve been following it you know that the members representing the GAC did express quite strong views about some of the issues that are still controversial in that group. So, I hope that’s helpful.

CARLOS REYES: Over here.

JAY PAUDYAL: Hi, I’m Jay Paudyal from India. What I understood is, I mean from this FAQ, GAC Advisors to the Board or any SOs/ACs. I mean, what if GAC opposes some policy, I mean, if GAC says no. I mean, “We don’t support this policy, and this is not the right for the Community.” Okay, and my second question is how do you define geographic limit of, you know, GAC members advising or opposing certain policies like, let’s say for .amazon or .newdelhi per say. I mean how do you define or limit geo-locations for the GAC members?

CARLOS REYES: We were planning. So, I think take a step back. One thing we may have missed in reviewing the four Advisory Committees. Let’s focus a little bit more on the mission of the GAC, and the GAC is really looking at the inner section of ICANN Policy and Public Policy and how Public Policy is

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defined, I think, can vary. But really the GAC is looking at that intersection.

So, when you take that and apply it within the ICANN Eco-System, it's actually a fairly small remit and you sort of notice that about most of our groups here. That, you know, the Root Server System Advisory Committee just looks at the Root Server System, etcetera. So, to the extent that the GAC is looking at Public Policy, it's through the lens of Policy Development for Country Code Top-Level Domains, Generic Top-Level Domains, and to a certain extent IP addresses.

So, with that as context, when you take your question about, let's say, you mentioned the geographic names or, I guess, geographic TLDs, it really comes down to GAC consensus. So, I'll let Mary take it from there and then we can explore your question further.

JAY PAUDYAL:

How do you handle, I mean, conflict between GAC members and Board or, I mean, any other SOs? Because I believe, I mean, GAC members are tough to handle, I guess, because they are from, you know, government and they might have some political interest as well. So how do you handle that?

MARY WONG:

So, let me follow up on Carlos' response because I think it ties in to the follow up question that you just asked. There's, first of all, there's no definition of Public Policy in the ICANN Bylaws. That is something that the GAC, as a consortium of governments, determines because there's

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so many types of policies that are possible so the GAC has to take a look at each Policy Recommendation, ask itself as a group of governments that deal with Public Policy, does this proposal impact Public Policy positively or negatively? So, that's a GAC issues.

Number two, when the GAC gives advice it has to be by GAC consensus. If you look through some of the GAC Communiques you will see certain things from the GAC that makes suggestions or points but isn't classed under GAC advice. And sometimes that is because the GAC did not get consensus, but it agreed that it was an important point to put in the Communique for example.

So, number three, what is GAC consensus, right? Because, as you said, the GAC is all governments, GAC consensus in ICANN is no different from government consensus in the United Nations or in any other multilateral forum. In other words, there is GAC consensus if no government objects. So, if your government, and I think it's about 180 governments now are members of the GAC, don't agree with a piece of GAC advice that is not particularly important to your country, because you have to be the one to has raised their hand and said, "Excuse me. I'm the government. I represent government of x and I, on behalf of my government, disagree with this." That's a pretty serious thing for any government to express so then maybe pieces of GAC advice that not all governments necessarily agree with, but each government may have decided that it's not something that it wishes to object to. So, it's not like a non-objection.



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So, you have GAC consensus really means that it's nobody objected, right? Then, to your point about dealing with the GAC. It's not been easy, right, for some Community Groups. It's not been easy for the GAC. And the reason, I think you all instinctively understand this, I think some of you come from governments as a matter of fact, this is a very different forum from what governments are used to. Governments are used to talking to one another. They're used to talking to one another in a particular kind of diplomatic language. They come to ICANN and they are told, "You are one of many stakeholders and you have to talk to everybody and you have to negotiate and agree."

That is very difficult for government so it's not just that the other groups might find the governments difficult. The governments themselves have found it very difficult to engage in the "rough and tumble" of the ICANN Community. So, there are some instances where that's been an issue because you see that the GAC advice is very different from what the Community came up with. We talked a little bit about the EPDP. We may or may not have time to get into .amazon but you know there were some governments in the GAC that felt quite strongly about that application, a bunch of other applications. Some GAC advice reflects that and some does not so even within the GAC there can be disagreements which is sometimes reflected in its advice or lack of advice.

JAY PAUDYAL:

Yeah, I have a small and last question. I mean, what is the voting threshold ratio, I mean, to decide upon something within GAC

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members? Supposedly they had a hundred GAC members. I mean, how do you decide, I mean, we need to take this advice or this recommendation or not? I mean, what is the percentage?

MARY WONG:

And that's why I mentioned GAC consensus. It's not a vote by numbers. It really is, does any government object? And, if you have nothing else to do on Wednesday afternoon, every ICANN meeting the GAC conducts a Community Drafting Session on the second last day of the meeting. Because it has to agree on what its advice is. So, if you observe that, and sometimes it's down to where should the comma go, and they can argue about that for an hour because, and it's an important point, because the GAC consensus advice that's reflected in every Communique must reflect what the GAC thinks. So, that's why the Community Drafting Sessions in the past were notorious for going late into the night. I think there was one meeting, three a.m. they had to order pizza because everyone was starving and there was nothing else that was open.

I would suggest that, I think you observe it, or you talk to GAC members about how that goes. It's not formal voting. It really is about coming up with something that all the GAC members can live with.

JAY PAUDYAL:

Thank you for the answers.

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CARLOS REYES: Thank you. So, I saw a question over there and then over here.

CALEB OLUMUYIWA OGUNDELE: Yes, so, Caleb for the record. I wanted to know what exactly is the scope of conversation that GAC can have outside, like, take for example I'm familiar with the fact that they have to talk about geo-names. That I'm very familiar with. What other conversation outside geo-names security issues that they can have limited kind of scope of conversation on? Secondly, I wanted to ask also that, take for example, actually get to see that all the time the Board has to consider advice from Advisory Committees such as GAC and the rest of them like that, why is that the GNSO has to go through the pain-staking effort of writing policies and there is a strong or likely possibility that these policies that they get to write are always rejected, sometimes by the Board? And the last one I want to ask is how can I fire a Board member?

SIRANUSH VARDANYAN: Just a reminder, please state your name before asking a question because it is important for all the remote participants to know who is speaking. Thank you.

MARY WONG: This is Mary from Staff, for the record. Sorry, Siranush. Let me try and address some of the points and, Carlos, please fill in if I miss anything. First of all, in the history of ICANN it has been very, very rare that the Board has rejected GNSO Recommendations on Policy. For the very reason that it is Consensus Based Multi-Stakeholder Process. You're

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seeing this now in one or two instances, but it is an exceptional circumstance. And that is because, again, the GAC can give advice on Public Policy and under the ICANN Bylaws, the Board is obliged to consider GAC advice on matters of Public Policy. So, the short version is sometimes when the GAC advice conflicts with the bottom-up GNSO Policy Recommendations, it puts the Board in a very, very difficult positions, right? Because it's faced with advice on what a collection of what 180-something governments have said is an important matter of Public Policy. So, the GAC by consensus says, "x". The GNSO where it's a bottom-up process says, "We want to recommend a Consensus Policy that says 'y'". Or sometimes it's just x variant. But it's not exactly the same.

The Board has to choose. It can't have both, right? It can't be x and y and so the Bylaws does go into a lot of detail about the engagement process with the GAC and the GNSO that the Board has to do, and the Board does have the flexibility and the leeway to engage in those discussions. I will also say that the Board goes to extraordinary lengths to avoid choosing between it's two children. Sorry, I mean that as a figure of speech. But, you know, I think it expresses what it means, and I will give you an example.

This is another issue that is live this week so I'm very happy to give the example. I think Carlos has heard me do this about 16 times. So, there is an issue, and I'll try to be brief about it, about protecting the names and acronyms of international organizations, like the U.N., like the World Health Organization, like the OECD. There is conflicting GAC advice and GNSO Policy. The Board has tried to facilitate dialogue

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between the GAC and the GNSO to encourage the two groups to resolve these conflicts and tomorrow there's actually going to be a discussion between the GAC and the GNSO on whether they can move forward to resolve these conflicts within the Community Processes without forcing the Board to choose.

So, I know that's not complete answers to your questions, but I think it really shows, there's a point Carlos made earlier, how our Community Processes play out, what the role of the Board is, vis-à-vis the role of each of the SOs and each of the ACs and how there always is this idea and attempt to engage in a collaborative good-faith effort to resolve any differences. So, maybe it's not great. It takes a long time, but that's how the process works. To your final question, about how do you fire a Board member? Well, maybe you won't be the only one, but... Hello, boss.

UNKNOWN SPEAKER: We were discussing how to fire Board members.

MARY WONG: Did you time this? He's going to stand right behind me while I try to answer your question and now I can't even see what he's saying or doing.

SIRANUSH VARDANYAN: Please welcome ICANN CEO and President.

MARY WONG:

So, now this answer's going to be totally anticlimactic, okay? But I mentioned the Empowered Community earlier and that is a very, very important accountability mechanism that came out of the IANA Stewardship Transition. We talked about that. What we didn't have time to go into is what the Empowered Community is and what the Empowered Community can do. But to your question, that indeed is one of the nine powers, and the word is powers, of the Empowered Community. There is a very detailed process in the Bylaws and I'm not prescribing homework unless any of you have jetlag and have difficulty falling asleep, but there is a very detailed process in the Bylaws that goes through for each of the nine powers, how to activate those powers. What is important to remember, two things, about firing a Board member. I don't like using that word. Initiating the process, right. One, any individual can file a petition under the Bylaws to one of the decisional participants in the Empowered Community.

There are five decisional participants at the moment. All three Supporting Organizations, so the names and numbers of Communities are all represented and two of the four Advisory Committees.

GÖRAN MARBY:

Can I say something?

MARY WONG:

Yes.

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GÖRAN MARBY: I've got to leave because they took me to the wrong room. Actually, whatever she says is true. Just remember one thing. All the Board of Directors are elected to their post from the Community, so they are not just there, they were elected in the beginning. So, the best way to get rid of someone from the Board is not to reelect them.

MARY WONG: Thank you. I'm not sure I can top that. It's all true.

SIRANUSH VARDANYAN: Thanks for coming.

GÖRAN MARBY: I will see you later.

MARY WONG: I'm a few minutes early.

SIRANUSH VARDANYAN: He was not supposed to be here.

MARY WONG: Well, alright. That was a diversion. I'm trying to think if he signed off on my salary increase. That's even assuming that I get one. After this, I'm not sure. And this is all being recorded. Oh my god. At least it'll make the transcript interesting reading for once.

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Okay, let's get back to this. So, we have five decisional participants in the Empowered Community and with regards to firing a Board member, like I said, number one point, an individual can submit a petition to any of the five decisional participants. But that's only the start of the process. Each of the five decisional participants have their own internal processes to determine how to deal with the situation because every group is different so there is no single process. But, point number two, and that's very important, even though the petition is thought by the individual, that particular decisional participant has to accept that petition. And then point number three, that decisional participant, if it accepts the individual petition, has to get the support of another decisional participant. In other words, an individual can start the process, but the process doesn't move forward unless the Empowered Community by a certain number supports that petition. It's not happened yet, but it is all there in the Bylaws.

CARLOS REYES: Yes, you've been waiting.

PAUL MUCHENE: Alright, so, my name is Paul for the record. My question is a follow up to some of the questions that were asked, specifically on GAC advice because unlike other Advisory Communities or Committees, GAC advice has major weight because it's by governments. So, what happens if, for example, there's a GAC Community or an Advisory to Board which has very strong consensus. Let me not use the term super majority but it's very strong but it's rejected by the Board. Do you, is there a similar



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process like the GNSO whereby you need two-thirds of the Board members to actually reject that maybe Advisory? You know, or for it to carry weight or tell me what happens and give examples for maybe GAC Advisory some maybe have been rejected.

MARY WONG:

Like I said, tough crowd. And I'm glad you asked that question after my boss left the room. So, to my knowledge, and I can be fact checked on this I could be wrong, to my knowledge I don't believe the Board has ever rejected GAC consensus advice. But I also want to reiterate that GAC consensus advice is GAC consensus. Not a question of majority or super majority within the GAC but that doesn't exist for GAC consensus. So, important to note that. What the Board has done is that just as it has gone to great lengths to try to reconcile those very exceptional instances where the GAC advice and the GNSO Policy Process does not lead to the same result, the Board has also gone to great lengths to try to see if it can understand the GAC's advice and the rationale better before taking action on it. And this can take a very long time. You asked for examples. Throughout the history of what now became the impact of GDPR on WHOIS. There's been a series of GAC advice on the topic. The other example that I gave about the Protection for International Organization Names and Acronyms, there's also been GAC advice on the topic. The Board would tend, if it believes that it may end up rejecting GAC advise, the Board has tended to differ acting on the advice.

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Under the Bylaws, there's nothing to prevent the Board from doing it and the reason it differs is so that it can have that discussion in this case with GAC. In other cases, so that GAC and the GNSO can have discussions. So, again, that shows the dynamic but it's at play within the ICANN universe between the Board and the different committees and policy organizations.

CARLOS REYES:

So, we have four minutes left. So, just very quickly, I wanted to get to your questions from earlier about Human Rights. Yeah, so there's a Cross-Community Work Party, again not a Cross-Community Working Group but a Work Party, on Human Rights. I don't think they have any sessions this week but if you want to track some of the work there or some of the discussions, that group is really looking at sort of the role of Human Rights and ICANN Policy Development, so we can follow up with you on that.

And then in terms of Universal Acceptance, you're right. There have been a lot of discussions recently and there's a Cross-Community Session, High Interest Session, later this week as well where different Community Groups will start to address some of the policies around Universal Acceptance. Thursday afternoon, thanks. So, with that I'm going to fast... We didn't get through about all of the slides but that is okay. And I want to give Ozon a few minutes to talk about what you're seeing this week here at ICANN65. Yes. One second. There we go.

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OZON STEIN:

Thank you, Carlos. I'm Ozon Stein based in the Regional Office, Middle East Africa Regional Office in Istanbul. So, I'd like to reflect the Cross-Community and High Interest Sessions that we have throughout this week. Earlier in the discussion you heard the Cross-Community Working Groups, Cross-Community Sessions, High Interest Sessions, they mean all the groups; Supporting Organizations, Advisory Committees, Stakeholder Groups, Contingencies, they have their own schedules and meetings there. But the Cross-Community High Interest ones, they interest more than one group, so these sessions are typically scheduled in a way that no other meeting competes against them, so everyone can join, provide their input and benefit from these sessions.

Tomorrow afternoon we have two Cross-Community High Interest Sessions. One is the Policy Aspects of the DNS over HTTPS and DNS over TLS and Related Issues. This is led by ccNSO and SSAC and after this session we have a Multi-stakeholder, Evolution of Multi-Stakeholder of Governance Session and it's going to be led by Brian Cote, a Community Member. And the discussion started back in Barcelona so if you were following, we had sessions there and then we had another session in Kobe. So, we had webinars, and this is going to be a continuation of the discuss.

On Thursday afternoon, we will have again two Cross-Community HIT Sessions. The first one relates to EPDP which Mary talked about already in the session. Impact of EPDP Phase 1 Recommendations on Other ICANN Policies and Procedures. This, of course, lead by GNSO. And then, as Carlos already mentioned, Universal Acceptance Session will be the last Cross-Community High Interest Session in Marrakech, again,

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Thursday afternoon. It's leads by ccNSO and ISPCP Groups. So, I think we are running over now. It's time. Thank you for your participation.

SIRANUSH VARDANYAN: Thank you and with that I would like to thank you all. Carlos, Mary, and Ozon for coming and taking time to explain and discuss. I like this very interactive session. Thank you for being here. Our applause is to you.

CARLOS REYES: Thanks for having us.

MARY WONG: Thank you for having us.

SIRANUSH VARDANYAN: Thank you very much. Yes.

CARLOS REYES: So, I was just going to say, when Siranush shares the slides there's background information on some of the PDPs that are ongoing this week. We didn't get to go into those, but the information is there and if you see any of us in the venue, feel free to say hello or ask questions. Thank you very much.

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MARY WONG: And I will say it is nice to see some familiar faces so please do say hi and please stick around and be active members of the ICANN Policy Community. We need you.

SIRANUSH VARDANYAN: Thank you very much and yes, I will share the PowerPoint which was presented today and some additional information when I receive it. With that thank you very much and thank you for today. We are concluding our today's session, but I have a couple of announcements which I will be doing out of record. Thank you. I also would like to thank our interpreters and tech team for their support for dealing our session. Thank you very much. With that, see you tomorrow.

**[END OF TRANSCRIPTION]**