SINGAPORE – GAC/Board Meeting
Tuesday, March 25th 2014 – 16:45 to 18:00
ICANN – Singapore, Singapore

HEATHER DRYDEN: Good afternoon, everyone. If you can take your seats, please.

Okay. So let's get started.

So we are having a meeting of the Governmental Advisory Committee with the ICANN Board. And we have a series of topics that we have identified. Some represent a general GAC concern, and where we have had some discussion, and other topics I think are really being raised by individual GAC members, so I will try to guide you through that as we move through the list of topics so that you can understand where we are in our discussions of any particular item that we raise here today with you.

Just a couple of points. For the purposes of allowing GAC colleagues that are not centered -- seated in the center or Board colleagues that have not managed to get seated next to a microphone, we do have a roving microphone available. So please don't hesitate to ask to speak. We can ensure that a microphone is brought to you.

Okay.

And then there will be a couple of GAC announcements at the end of the meeting for us to plan for our day tomorrow, and so on.

But let's get right into the topics. So first of all, the GAC has had some discussion this week about the issue of GAC safeguards, and, in

particular, how they are being implemented. So we are seeking clarification and are preparing some questions for you that we expect to provide to you along with our communique. These touch upon a range of issues related to those safeguards.

So for the purposes of our exchange today, I will ask some colleagues to point to some of the topics that are covered with these questions that we're developing, just to give you a sense of where we, as a committee, are on that.

In addition, we will ask you about all the different efforts under way that relate in some way to WHOIS. And then raise a point with you about the Registrar Accreditation Agreement and data retention waivers, and how this impacts a certain part of the world.

And then we will move on to a request related to being briefed about compliance. And then we have some questions from individual GAC members about internationalization versus globalization, and in addition, a request for an update on dot amazon. And then a point about the preparations for GAC meetings and the way in which ICANN may be able to assist us with our workload and allowing us to prepare better for these meetings. A point about auctions as well is something that we will raise. And so those latter points, I think, are of particular concern to individual GAC members based on our preparatory discussion.

With that, Steve, shall we proceed?

STEVE CROCKER: Thank you, Heather. Yes. Just on behalf of the Board, we've been sitting in the room next-door all day meeting with different constituencies, and it's a real pleasure to have a change of venue here. So it reflects the fact that I suppose a certain etiquette or protocol. You guys are more important, so we come to you, and we're pleased to be here.

HEATHER DRYDEN: Okay. Thank you.

All right. So let's begin with the issue of safeguards and the questions that we are preparing to put to you.

I will look to certain of my colleagues that I know have been working on this.

Can I ask the United States, perhaps, to start us off?

UNITED STATES OF AMERICA: Yes.   Thank you, Madam Chair, and good afternoon to our Board colleagues. I think, Steve, we'd probably be more than happy to go to you. Is your room set up quite like this? And I think we would be more than happy to do that. But thanks for pointing that out.

At any rate, I'm going to try to I have go you a flavor of what you will see in the GAC communique in much, much more detail. And so in the interest of time, I'm not going to go into the detail that the text itself will, but we thought it would be a good idea to at least give you a sense of the homework we have done between Buenos Aires and the Singapore meeting.   And   we   have   approached   the   issue   of

implementation of GAC safeguards with a set of questions that have come to mind.

So if I could just give you a brief sense.

There are, as you will recall, the overarching six safeguards. And we have identified at least three of the six as subject to some implementation questions. So I will just flag them by subject matter.

The first is the WHOIS verification and checks.

The second would be security checks.

And the third is ensuring mechanisms for making and handling complaints.

So there will be some detailed questions along those lines.

With regard to category 1 and category 2 advice, we've given that quite a bit of further thought as well. And if I can just make a quick reference to on the category 1, public interest specification, in amending -- you have amended, from what we can tell, the GAC's advice from Beijing in several areas. I would like to highlight perhaps one that we all consider the most important area, is softening the GAC advice on validation and verification to a requirement that a registrant simply represent that they actually possess the necessary credentials has given us all, as governments, strong concern about the impact on mitigating and avoiding consumer fraud and protection.

So where we're coming from is to do our utmost at the outset to prevent consumer fraud and protection by setting the bar a little bit higher for strings representing sectors that are either obviously

regulated, such as the banking sector, sectors that do require credentials, whether that is a corporate identifier or a sector like lotteries where credentials are, in fact, required; and/or some of the other -- the other arenas where, frankly, it is quite clear that credentials are required.

I would like to stress, though, a note of caution. The examples I have given are not meant to be -- you'll notice I avoided any particular string because we run the risk, I think, of whenever we mention particular strings it comes across as an exhaustive list and we're only trying to give illustrative examples here. So if I may, we're not meant to be exhaustive. So if I did want to flag that one. There are a series of questions that you will see.

We also want to flag a concern about category 2. As far as we can tell your proposed implementation of the category 2 safeguards that we outlined in Beijing is reflected in PIC spec 11, section C and D. And it appears that the NGPC has determined that the transparency requirement in Section C fully meets the GAC's request that registry operators be prevented from granting preferential or discriminatory treatment to domain name registrants.

So our concern there is that transparency alone isn't sufficient, and that we think there is an easy remedy, actually, by using the very words that the GAC Beijing communique used. No undue preference and nondiscrimination.

We have a good example for you, by the way, should you have a question as to what we mean by that, but I don't need to go into it now.

We also want -- We'll be flagging, actually, a lot more detailed questions, so just to give you a heads up, on the public interest commitment dispute resolution process, or PICDRP.

I guess the first question is is is the PICDRP -- it's not clear to us whether the PICDRP is the only remedy available, and of particular concern there, we link this back to our concern about verification and validation. In order to mitigate consumer fraud or the results of potential consumer fraud from a registrant that has actually falsely pretended or represented themselves as actually possessing a credential, if the PICDRP is the only tool available, then there is a huge hesitation about the potential time line that could take. So in going through the current version, it would appear a PICDRP could take as long as 105 days, which seems like a rather long time if you are trying to deal quickly to stop consumer fraud.

So we did want to flag that, in particular. And it does appear to us that, unless we have misunderstood, it is the PICDRP that is the sole mechanism by which all of the GAC safeguard advice is going to be monitored and registry operators would be held compliant to. It's through that particular mechanism.

So in addition to the overarching concern, it's the time frames, the sort of composition of the standing panel, the issue of standing for law enforcement and appropriate government agencies to actually file a PICDRP.

Then it's not clear when it will be the PICDRP or ICANN alone that might be taking action. And it doesn't appear that there is complete clarity as to whether a final solution would be identified through the PICDRP.

And then finally, we have some concern about lack of clarity on remedial measures.

So I can assure you, our questions go into much more detail, but we thought it was only fair to give you a flavor.

Thank you.

STEVE CROCKER: That's quite substantial.

The -- If I understand correctly, you're giving us an alert that this is what's coming. So we're alerted. You're not asking for us to respond to these details here and now, I hope. And so we will look forward to getting all of this and, as you've promised, even more.

Cherine, do you want to say more about all of this?

CHERINE CHALABY: No; just to confirm what you just said. There's a lot there. I'm sure we'll get this in writing. And we will respond on a very timely manner, as soon as we get them.

Thank you.

STEVE CROCKER: One thing that went through my mind in all this is, as most of you know, we've been very focused on building a process so we can deal with the advice in the GAC communique as well as advice from other sources in an orderly and trackable fashion and so forth. So as you were going

through this, I was trying to process in my mind how many rows -- how many separate entries this is going to fill up and how many pieces of work. Is it one compound thing or is it a dozen or so distinct things?

It isn't instantly obvious, but that's -- certainly as we receive this and look through it closely, parsing that -- well, I haven't seen the communique, so certainly whatever structure you put into the communique will be the first step in that. And then we may -- we may, as we interpret it and try to understand it, we may come back and either subdivide a it more finely or whatever we do with that.

Thanks.

HEATHER DRYDEN: Thank you for that response. And you're right, it is a signaling to you what's to come with the communique. And it's something, I think, where there's a fair bit of discussion or consideration that's already taken place in the GAC. And so there are shared concerns here with the topics raised by the United States.

So European Commission, did you want to add? Please.

EUROPEAN COMMISSION: Thank you very much, Chair. Good afternoon, and thank you to the Board for coming and seeing the GAC. So first of all, I would like to fully endorse what has just been said by the delegation of the United States of America and to say we have also tried to be supportive in this work, and I would also like to mention a few things, and also on the line that this is a few examples. It's not exhaustive.

So first of all, it's dot finance and dot financial. They have not been put on an equal footing with dot bank, despite the fact that the financial sectors are closely regulated, in particular for consumer and investor protection and to ensure global financial stability.

The offer of financial services online implies these gTLDs to be categorized as highly regulated sector to avoid bad faith registers.

(Indiscernible) verification of credentials is of utmost importance as far as we can see. And other new gTLDs may pose similar risks, such as lease, loan, insure, which may have identical use to insurance currently considered by the NGPC as highly regulated strings, and credit due to the similarity with credit card.

On December 8, 2011, during a hearing of ICANN before the U.S. Senate Committee on Commerce and transportation, ICANN actually made a clear commitment to provide appropriate protection measures for financial new gTLDs. So this is one important point as far as we are concerned.

The second I would like to mention, or third if you count properly, is dot lotto. And the operation of lotteries are subject to strict state regulations for reasons of public order, consumer protection in many jurisdictions, including the EU, (indiscernible) adhering to high standards of responsibility gaming is essential.

So the new gTLD dot lotto has been included in the category of highly regulated structures in deference to dot financial, et cetera. The verification of registrants' credentials and domain name validation requested by the GAC to be performed by the register has been

replaced by mere obligation to present a representation of those credentials to the registrant.

This may lead to abuse of dot lotto gTLD by legal and unlicensed operators of games. And we would like to see the operation of dot lotto to be restricted to update takings licenses to operate lottery services and restricted to offering services in jurisdictions in which they are licensed to operate. That was all. Thank you for your attention.

HEATHER DRYDEN: Thank you, European Commission.

France, did you also want to add? Thank you.

FRANCE: Yes, thank you, Madam Chair. Another question for the Board. Since ICANN has obtained the commitment from a number of applicants to change their application from closed to open registration, we would like just to know exactly how ICANN is going to make sure that those changes are effectively implemented.

Thank you.

HEATHER DRYDEN: Thank you, France. Okay.

So let's keep moving through our agenda and next we're going to have a request for a briefing. And this is arising from the challenge we have noted in tracking all the different activities related to WHOIS currently under way at ICANN. As you can imagine, this is an issue that continues

to be of great interest to us here in the GAC. And to name some of those, there's the Expert Working Group and its work and how that will feed into the policy process at ICANN. As well, there is the policy and privacy proxy accreditation stream of work, as well, I understand, a working group looking at transliteration and translation issues related to WHOIS. And there may, in fact, be others that we're not aware of.

I don't know whether my colleague from Australia wants to add anything to that list. But this is the request to you, which relates to another issue that came up in our preparatory discussion for this exchange, and that is really the volume of work under way at ICANN and all the different streams of work, and a query about what are the tools available to us in the GAC in order to understand what those streams of work are and what to be tracking and preparing for in our meetings.

So that's a work in process. So the main item there is, I think, a request for a briefing on WHOIS, but also pointing to this broader challenge that we seem to face in the GAC.

STEVE CROCKER: Thank you. That looks like a useful thing to do, not only for you but for everyone.

This will all be laid out in the communique, this request?

Yeah, I would recommend writing it down somehow. And I think the first step in preparing the responses to see if we are in sync on all the different pieces that you have in mind, y'all mentioned some of them. We'll cross-check that and see if there are others and then proceed with putting the answer together.

CHAIR DRYDEN: Thank you. So the next topic relates to the registrar accreditation agreement and data retention and waivers and so on associated with addressing issues identified with differences in data retention laws. This is an issue that is impacting our European colleagues in particular, as I understand it. So, for that reason, I will turn to Germany to elaborate further on these concerns.

GERMANY: Yes, thank you, Madam Chair. And good evening to the board. We mentioned and discussed these issues of data retention and privacy laws in various jurisdictions on various occasions in this discussion with GAC/board.

The reasoning is that, as our chair mentioned before, that some of the data retention requirements infringe on national privacy laws. The RAA established, therefore, the possibility that registrars can apply for a technical waiver. We heard from our community that the granting of such waivers takes significant time. For the time being -- I think there should be -- as long as these waivers are not granted, I think there should be a common understanding that there are no sanctions for those registrars that applies a local privacy laws but might infringe the data retention requirements that is foreseen from the RAA.

I would also like to indicate that we have also some of these problems with the registry agreement because there are also certain requirements for data provision in the registry agreement that might be

conflicting with the privacy laws. And we think that these kind of waivers could be a model also for this. Thank you.

STEVE CROCKER: Thank you very much. It won't come as any surprise that this same issue has been brought up during the course of the day in other settings from, I think, the NCUC and the registrars in particular.

I want to address this in two levels. The mechanics of what's in place and how well it's being managed, whether or not the waivers are coming in a timely fashion, whether or not there's conflicts as -- that are claimed and so forth, all of those are very important questions and need to be dealt with forcefully.

I want to -- I'm not going to spend time on that. But I do want to raise a broader issue. The first time that I appeared before you as chair was in Senegal 2 1/2 years ago, basically. And that meeting was quite vivid because the board was taken to task for not having been forceful in implementing the strong controls that law enforcement community had been pushing for. And law enforcement representatives were present in that meeting, and the GAC was speaking very strongly on their behalf.

And I was very empathetic, because I had been following the dialogue over quite a long period of time. And I felt very strongly that we should be paying attention and do something about implementing their requirements.

We had some quite vigorous discussions internally. And, although things didn't proceed as rapidly as I would have liked, we did put --

ICANN did put strong requirements in to the registration agreement, registration accreditation agreement.

We're now in the position of hearing that those requirements have gone too far in the sense of being in conflict with local data retention requirements, the private local privacy requirements. And I'm charmed that the GAC is now raising the issue on the other side.

So it's not a question of consistency. It's actually an opportunity here that the GAC is now in the position of seeing both sides of the question. And so I want to ask for your help in sorting out the competing requirements, the competing requests, if you will, from law enforcement, on the one hand, and the privacy laws that are in your various jurisdictions.

I want to go even a step further. A clap? That's nice.

I want to go a step further. It isn't, in my mind, simply a question of who has the greater authority or, as a matter of jurisdiction, one party says we want this and we're doing it with the following authority and we're important and you must follow us.

There is a greater good here, which is all of this is, presumably, in service of a safe marketplace, a safe place for the users on the Internet. A reduction in crime, a reduction in fraud of various sorts.

And the other side of this is what are the costs to the entire system not only in terms of dollars but in terms of harm to registrants who fall afoul of the WHOIS requirements and get turned off inappropriately, the so-called false positives or false negatives, depending upon the way you point this.

A key ingredient in this discussion is: Is there any hard evidence? Is there hard data on the effectiveness of the strong requirements that are being put in place? How much does it actually help reduce crime and fraud and so forth?

We don't have that data. It would be very helpful to bring that material in to public view, if it's possible. And, if it's not known, then to initiate the processes to get that data. Because we're collectively in the state of choosing how -- where to set the bar based upon gut feeling and not being able to tie the pieces together in a meaningful way. And I would like us collectively to aspire to a higher level, an evidence-based system so that we know what it is that we're accomplishing, why it is, and that we can back that up. So I will share that with you.

We will, of course, treat whatever you put into the communique in a formal way very thoroughly. But I wanted to stimulate some thought along this line.

CHAIR DRYDEN: Thank you. So European Commission, you would like to follow up?

EUROPEAN COMMISSION: Thank you very much, chair. Just a couple of positions. We feel that ICANN should define first the purposes of processing and the retention in full compliance with national written legislation to ensure that registrars can provide notice to each new or renewed registered name holder stating the purpose for which any personal data collected from the applicants are intended. This would help registrars properly implement the RAA in their relations with registered name holders and

guaranteed compliance. So only on the basis of the purposes defined, ICANN could lay down appropriate retention periods in the RAA, which should be proportionate to these purposes. And, as far as law enforcement is concerned, I can tell you that at least European law enforcement are fine with much shorter periods of retention. So that's for the record. And what was said, particularly by our German colleague in general, this is the common EU position. And we are perfectly prepared to engage with ICANN to resolve these issues, because we're well aware that it's highly complex. Thank you.

CHAIR DRYDEN: Thank you. Spain, do you have something on the same topic?

SPAIN: Just a short question regarding law enforcement. I've noticed that the data registrars have to retain over a period of two years, it's acceptable to be rendered to ICANN. And I wonder what's the ICANN's role in enforcing laws. I don't see the relationship between law enforcement and data being held over to ICANN. Thank you.

CHAIR DRYDEN: Thank you, Spain.

Steve, did you have a comment?

STEVE CROCKER: Do we want an answer to that now or later?

CHAIR DRYDEN: Now, because I will move us to the next topic.

STEVE CROCKER: I think, if there is somebody from ICANN management here, that would be the appropriate place for this question. Fadi? Akram? Oh, hi. I had spotted you over there, and you've -- either you or one of your excellent staff.

FADI CHEHADE: Sure. Just a quick comment on this whole area. We knew from the beginning, when we asked registrars to sign this agreement, that in some cases the retention -- data retention laws will conflict with national laws. We knew that. We built into the agreement mechanisms for waivers. They're being granted. A French company got the waiver in a few weeks. It's not very complicated. They just need to apply themselves and get it. Our issue is that in Europe, while the directive came from the commission, countries are implementing it with slight nuances. It's not the same application across Europe. If it were, it would be easier. But it isn't. So we have engaged legal counsel to actually study how each country's nuanced application of the European Commission directive is put in place so we know how to treat the various requests from different countries. So it is -- we are very engaged on this issue. I want to be clear that we understand this issue.

We are investing time and effort to have the right data before we engage with the contracted parties. And you have my commitment and the commitment of ICANN to ensure that we will address their requests for waiver as fast as possible. But there are some very critical things

we're asking them for that only a few have come up with so far. It's not difficult. There are just some clear rules for us to know exactly how our data retention requirements conflict with local laws in their country. Many of them just sent us the European directive by fax or by email. When we explained to them that it is different in every country and we need an understanding from their local laws, they wrote blogs to say we don't understand. So I'm being very candid here. But I think we need to engage with them, support them. And that's why we are spending quite a bit of money and time getting the legal opinions to help them so that we can get out of this conundrum. But we are committed to make this happen quickly.

CHAIR DRYDEN: Thank you, Fadi. Okay.

Then let us continue with another request still staying on the topic of generic top-level domains. And this relates to the issue of compliance and a request that we would get a briefing from staff to update us on the compliance aspect of the gTLD program and to have those updates at each meeting. So I think that's another request that we can include in the communique.

Okay. You're nodding. Good.

All right.

So then let's keep moving through the agenda. In terms of gTLDs, we did have a point raised on the topic of auctions. You might be aware that, at the beginning of our meetings here in Singapore, we had a briefing on the topic of auctions. And there were some questions and

some observations that related to that. And so there continues to be concerns there but recognizing, of course, that we are at the end of the program in many important respects and that auctions are imminent and going to be conducted by ICANN. And this is, essentially, what we were briefed about at the beginning of the week. I don't know whether anyone would want to add anything on the topic other than to observe concerns. Iran, please.

IRAN:
Thank you, Madam Chairman. Thank you, distinguished chairman of the board and the distinguished president and distinguished board members for having your time being with us. In fact, this question was raised by Russian Federations, by Russia. But we raised it also on other occasions.

For section 4.3 of the guidebook, when it was written, at the time we were living in another environment than today. Today the environment changed. The situation is not totally but drastically changed. The new gTLD coming now, 1,937 -- some of them are successful, some of them on the processing -- were not at that time with that extent. Therefore, there is a need to look at the matter from that angle. Moreover, the auction as the last resort, although it is mentioned, from the legal point of view, would counter run or run counter on the public interest.

Giving privilege to those who can afford to pay and those who cannot afford to pay, but still they have right.

I don't want to compare the gTLD to the national resources, but this is similar. It belongs to everybody. You cannot put it on the auctions.

It may be appropriate that at this time having some reflection on the matter to see whether we could get -- hold up that for some time -- I don't know how many months -- to see in which direction the situation goes. This year would be a deciding year from various aspects. On one hand, ICANN yesterday launched its process for the (indiscernible) globalizations of the ICANN, and also in the stewardship of the IANA functions. And on the other hand, on the NETmundial, which we don't know what will happen.

We expect that something will happen and a statement or a declarations and so on, support, and probably a road map and probably some follow-up steps.

So we suggest, just suggest, that the distinguished board consider the possibility not to immediately go ahead with this auction because of the date that we mentioned yesterday to your colleague to us, that there is something coming just very, very soon.

You have the full rights and authority to reflect, to consider, and it is within your mandate to look into the situation, and according to the environment and the prevailing situations, to consider whether or not you decide to postpone it for some time.

And then you also come back to that whether it might be replaced by other criteria before you understand the philosophy behind the auctions, if there are differences. And you cannot take years and years and years. You have to find the solutions. But there might be other solutions.

We don't want to propose you at this time other solutions. But we have something in mind. We may propose it at a later stage.

STEVE CROCKER: Thank you very much.

[Applause]

STEVE CROCKER: I --

IRAN: I have not finished. But does not matter. Okay. Go ahead. I am sorry. I hope I would not make you unhappy, because you are a very smiling person. Yesterday, with a question raised with respect to the globalization and so on and so forth, you seemed to deprive us from your continuous smiling. I hope you continue to smile and may not be bothered by our questions which may be bothering. We apologize beforehand.

STEVE CROCKER: You are most kind, and I am smiling.

I did not mean to cut you off. I thought that you had completed your thought.

I'm not completely up to speed on this, so I'm taking a little bit of a risk. But certainly in the process of dealing with contentions, there is an element, part of the consideration is public interest. Can I ask

somebody who has been deeply involved in this, either Akram or Fadi or perhaps Cherine, to speak about the role of public interest versus the auctions, what that interplay is. And I'm asking not so much on behalf of trying to make a change or a decision, but just to refresh our memory, because this is not a new topic. This is one which has already had some substantial consideration. So we didn't arrive at the place we are without having essentially had this conversation in depth during the development of the applicant guidebook.

AKRAM ATTALLAH: Can you hear me?

CHERINE CHALABY: Akram at the back is going to respond.

AKRAM ATTALLAH: Yes.

So on the auctions, it's important to remember that the auctions and the guidebook are an auction of last resort, which means that we've exhausted all of the mechanisms to get the contention sets to resolve themselves before we do the auction. And we still believe that there would be very few auctions that will take place at the end of the day. So the auctions are really meant to resolve the contention sets. And there were a lot of different alternatives considered during the development of the guidebook, and the community decided on the auction as a way to resolve the contention sets. So I hope that answers the question.

STEVE CROCKER: Can you say something about where public interest came into play with respect to auctions. For example, if there is -- one of the contenders has a higher claim from a public interest point of view, does that come into play prior to the auction, during the auction, or no --

AKRAM ATTALLAH: I think, Steve, that the processes of evaluating the applications allowed for a community priority evaluation, for example, that addresses the community's needs. It allowed for geographic preferences. So there were a lot of steps before we got to the auctions to the address all different aspects of public interest that were considered by the -- by the community.

The auction still has a public interest, and that's basically with the proceeds of the auction, what the community decides to do at the end of the day with those proceeds could be also in the public interest. So I don't think that the auctions are totally contradictory to the public interest.

Thank you.

STEVE CROCKER: Thank you very much, Akram.

CHAIR DRYDEN: Switzerland, you have a comment?

SWITZERLAND: Just a quick correction. I actually think it's not the auction that is the problem. As Akram said, there have been mechanisms before. The problem is that in many cases, these mechanisms were maybe not fully understood. But the community concern or there were other reasons why they really weren't able to make full use of them. And that is the problem. But we have referred to the problem of community recognition or -- in earlier advice. But this is something that definitely should be worked out maybe easier this in the next round. This is a clear experience from the first round, I would say. Thank you.

CHAIR DRYDEN: Thank you, Switzerland. And I think you've helped --

[Applause]

CHAIR DRYDEN: -- point us to some of the efforts and some of the discussions that have been under way in the GAC to think about future rounds. And we've set up a working group to look at future issues, which I think will be very useful to us, because we do need to learn some lessons from this current round. And even though in some cases the rules as set out may have served us very well, there are still things that have turned out to be a bit more problematic. And lining up the rules and the implementation of a program to meet objectives that are set out at the beginning of a future round I think is going to be very helpful to us in the GAC and as a community generally. So I think it is important for us to capture those items that have become more clear to us through having the implementation of this current round.

So let's move now into a few more topics where we have individual speakers so they're not necessarily a GAC view that's being put forward, but some colleagues have identified particular questions for us.

So I will turn to Brazil to make a request to the board.

BRAZIL: Thank you, Madam Chair.

Actually, it is a request in regard to an issue that has been under discussion for a number of meetings now. That refers to the request of the delegation of the domain Dot Amazon. There was -- at the Durban meeting, there was a recommendation, a GAC recommendation, by consensus in that regard for it not to be approved.

This is an issue -- and then we went to the Buenos Aires meeting and now we come to this meeting without final decision on the board.

So at this point, we would appreciate if we could receive from the board an appraisal of the status of consideration of this issue, as it is, from the point of view of council, a quite uncomfortable situation in which the perception that all the procedure has been followed, all the steps, all the conditions are there for a decision to be made, and therefore would like, respectfully, but at the same time, to have very clear information on where we stand, if that is possible.

Thank you.

STEVE CROCKER: Ambassador Fonseca, thank you very much. And thank you for taking your time to come here.

And we understand how -- how important this issue is to you. And I'll also take the opportunity to mention that we're very much looking forward to coming to Brazil next month.

I'd like to turn to Cherine Chalaby for a response on this particular item.

CHERINE CHALABY: Thank you for your question. And let me update you where we are on the application.

If you recall, on the 5th of February, the NGPC met and decided at the time to commission an independent third-party expert to provide analysis on the specific issues of application of law particularly in relation to the Dot Amazon application. And this report, or this analysis, would be to focus on legal norms or treaty conventions relied on by Amazon and the governments.

So we asked for the analysis to be produced, and we received this analysis before Singapore. On Saturday, 22nd of March, the NGPC met to continue its due diligence on this issue.   We considered all the relevant material available to us, and we decided on Saturday that we will publish this report and we will seek comments on it.

So we will continue with our analysis. We have not made a resolution or taken resolution on the Dot Amazon application.

CHAIR DRYDEN: Thank you.

Okay. So let us keep moving through the agenda. As I mentioned, some individual GAC members had these further questions, and so we have, I believe, perhaps two or three GAC members that wanted to ask about the role of governments and internationalization versus globalization.

China, please, you have the floor.

CHINA: Thank you, Madam Chair.

Thank you also for the top leadership of ICANN in committing the CEO and also the board chairman to sit here, and listening to the views of the GAC.   We all know that it is very important for us, for an organization like ICANN, to listen to the views not only from its inside organizations, but also listen to the views from outside.

Currently, we know that the Internet has deeply converged with the actual realities, civil society, and all the people are more concerned with its security of the subspace.   And also the Internet governance has entered into a new phase.

The problem we face not only is the IANA transition, but also many issues concerning the public policy issues of Internet. They all need the evaluation and they all need complementation. So the evolution of the ecosystem of Internet governance is a problem or is the subject that every organization is discussing.

They all want to get the power. They all want to get to sing in this kind of subject. But how is the future? What is the future status of Internet governance? We don't know.

And we know that ICANN wants to take its leadership in this kind of evolution. But they have competition.

ICANN has also had disadvantages. But we must know that ICANN also has its shortcomings and deficit. And ICANN needs to listen to the views of the outside very humbly and also correct or make its complements accordingly.

We know that one of the critical -- very important question now would be outside has questioned ICANN's legitimacy is its involvement of the government.

ICANN boasts that it is the model -- it's a model of multistakeholder. But outside didn't think that, especially from the developing countries. They think that the governments' involvement or the governments' voice are not heard, are not represented fully in the decision-making process of ICANN, and they question the legitimacy of ICANN to take over the Internet governance right.

And also the -- I think for current status in the overall institutional framework, the GAC is providing -- just providing advice. And for the decisional process, decision-making process, we know that the GAC -- the chairman of GAC is the member of the board, but it's a nonvoting board.

So I -- my views -- have -- have two views for comment. Also, we take the comment from the top leadership of ICANN.

First is, in the institutional framework, the governments -- the resources and also the chairman for the governments, maintaining its public interest is very limited. And because GAC is only providing advice, it has no functionality or no means to draft or to make the policies concerning the public issues. So there are some proposals from the outside organizations or from the developing countries that maybe there can be some kind of supporting organization called the governmental supporting organization to be established. And under this kind of framework, the governments can coordinate internationally to make some policies regarding to the public's interests.

And the second, in the decision-making process, we think that maybe some adjustment or some improvements can be made, such as the GAC member -- GAC chairman's membership in the board maybe can be -- can be -- because I think -- we think that the -- for the multistakeholder, all the stakeholders should have equal footing. But not now, right now, in the GAC. They -- not only in the decision-making process, but also in all levels of participation in the process of the Internet governance. So this is -- this is the outside views that I think the ICANN should listen to very carefully and very humbly, to make that in the future ICANN can evolve into a real multistakeholder organization that can represent all the interests of the stakeholders.

Thank you. Thank you. And also, we need to -- we want to hear the views of the top leadership of the board members.

Thank you.

CHAIR DRYDEN: Thank you, China.

                          I have a request to speak from Iran.

                          Did you want to --

STEVE CROCKER: Did you want to comment in response to China?

CHAIR DRYDEN: We can go to Iran next, and then perhaps comment.

                          Iran, please.

IRAN: Thank you, Chairman. I know the time is limited, so I preserve some of
                          my questions to be presented in Sao Paulo publicly.

                          But now the question relevant here.

                          Distinguished chairman and the president of ICANN yesterday
                          announcing that you launched the project of the transfer of ownership
                          of the functioning of IANA.

                          This has two elements. One element is stewardship, and the other
                          element is functions. There are two different things. Stewardship, yes.
                          But that also has some conditions. The statement or declarations or
                          announcement of the NTIA has four conditions. Suppose that one or
                          two or some of these conditions are not met or would not be met by
                          2015. What would be the situations? That means NTIA continues to
                          have the stewardship saying that, no, this has not been fulfilling.

But important -- more important than that is the content of the functioning of the IANA and also the affirmation of the commitment. That also needs to be reviewed. I read you one paragraph of the affirmation of commitment, paragraph 9.1, section B or Part B, says that ICANN assessing in the role and effectiveness of the GAC and its interactions with the board. That means GAC is at the mercy of ICANN. You assessed our effectiveness. You have the authority to say that GAC is no more effective. That also will be -- this is an example. The content of this affirmation would also be modified. This all brings us to the following issue. And that is accountability. Accountability has three parts. A is accountable to B on subject C. A is clear. Very probably ICANN. But who will be B? ICANN will be accountable to whom? We have heard multistakeholder. But that is abstract. What is multistakeholder? This is some imaginary things.

Would it be in future some arrangement that the two sides sitting physically, one in front of each other. One the accountability is to the other one. And, based on the accountability itself. And what is the accountability? Is it what is in Affirmation of Commitments, or there would be a new set of accountability taking care of all of that including what distinguished delegate of People Republic of China said. GAC should no longer be an advisory. GAC should be one of the -- if multistakeholder is achieved or approved or agreed, which personally, just personally, I hope would be one, why the others would not have the advisory but only GAC would have advisory? Why we are so downgraded that only advisory? Representative of 193 governments -- today we are 132. Hopefully, we'll be increased. We have advisory. But one single person from the private sector they have equal rights more

than us sitting in the world and having the vote and having the decision making? This is the way of equal footing? So the content needs to be changed.

So we need, Mr. Chairman, to look at the content of this accountability, to look at all the relevant subjects and to see how that also should be changed within the project that you're launching. Otherwise, there might be some difficulties. And we have to organize in a way that, having a physical entity of multistakeholder, no matter how they will be elected, maybe the same way -- now they go to NETmundial. X from this society, Y from that society, L from another society, combinations, so on. But sitting from one side, this is the group and you are the ICANN and you are accountable to this group. You will be questioned, and you will reply. Would it happen? Have you foreseen such sort of things? Or are you just imagining multistakeholder? If you don't know multistakeholder, what is it? I am in favor of multistakeholder, personally. Because if ICANN has -- not ICANN. If Internet has been progress, thanks to the richness brought by everybody to this society. If you limit to particular group, that would not have decision. So I'm not against that. We're not against that. But we should have these people coming with a multistakeholder. What is the legitimacy? They speak on behalf of whom? Many people say I speak on behalf of myself. How you could compare somebody speaking on behalf of himself with somebody else of the government of the millions of the peoples on behalf of those millions and again the same footing, these are the things that we will further elaborate in the meeting. But I think, at least for the first part. Second part we don't need to be bothered to reply later on. First part, how you will see the accountability in future. Thank you.

STEVE CROCKER:

Thank you for your very passionate -- I'm speaking both to Iran and China for your very passionate inputs. I'd like Heather, as chair of the GAC, to speak about the role that she plays in the deliberations and on the board and what the impact would be of voting.

But I'd also like to note that in the present arrangement, the GAC has a very powerful voice, which is part of the process that we're discussing here today with the communique, formal requirements for response, formal requirements for what to do if we're not aligned with the advice coming in. And, as one makes an adjustment, as you're proposing. And converts to, say, a voting seat, that may be less powerful than the current arrangement. So I just plant that idea there.

CHAIR DRYDEN:

Thank you. So I have a request from Lebanon to speak, but I also think Fadi wanted to comment. Fadi, did you want to comment now?

FADI CHEHADE:

Yeah. Thank you very much, Mr. Arasteh, for your good comments. And I appreciate them very much. But I can assure you that 2,000 people in this building are not imaginary. This is the multistakeholder model. Everybody's here, and they have a voice in this process.

I also want to clarify that policy at ICANN, when it's made in the GNSO, can very well include members of governments. You're welcome to participate in every PDP that is being developed at ICANN. Policy is not made in multiple groups. It's made in some specific SOs. Please, by all

means, governments should have involvement, just like you do at the IETF. You participate in many of their working groups to develop standards and protocols. You can do the same here. Everyone is welcome to do that, including governments.

In terms of your point about accountability, you are right, that accountability is very key. And I think the board has shown great wisdom on Monday to open both subjects -- the subject of transitioning the United States stewardship of the IANA functions, which is an important area of responsibility and accountability to all of you, to the world; but they also open in the afternoon the subject of ICANN's accountability to the world. So many of your good comments, I think, would be great input into that process. And I welcome any member of the GAC to take a very active role in guiding us as to how we can strengthen the accountability to meet the globalization requirements that we have put ahead of us. The AoC is a document that is not all of our accountability, but it is a document that is a part of our accountability mosaic. Is it up for potential enhancement, extension, strengthening? Absolutely. That's exactly what this afternoon process that we started is about. So, by all means, this is not a -- at ICANN everything can evolve. It is not a rigid document. It is a document for all of us to make a living document. And this process that we opened yesterday afternoon is precisely to do that. I welcome everyone's participation in that process.

CHAIR DRYDEN: Thank you, Fadi. So I have one more request to speak from Lebanon, please.

LEBANON: Thank you, Madam Chair. I would like to elaborate a little bit on an item that the chair had mentioned earlier concerning the GAC preparation. It's a little bit more than the GAC preparation. Lots of things are going on. It's a time of change. Things are moving very fast. And, as such, what I'm talking about here is really related to improving the multistakeholder model that everybody's working towards and to increase the level of transparency and operational excellence, to improving the efficiency of the process and the effectiveness of the GAC itself as it provides input or it works with ICANN and the board. It should improve the effectiveness of each one of the members, especially the new members or the members with limited resources. We need to make sure that our input is valuable, is valued, and positive and it's taken into account. The involvement should be properly considered. There definitely needs to be a better structure of the efforts. There needs to be better access to information.

Overall reporting, whether it's operational, planning, strategy -- strategic, it should be highlighting -- somehow I should be able to look somewhere and find what is the organizational structure, not necessarily of ICANN but also all the efforts that are going on. It's not easy to really look there and find out the working groups, the committees, their memberships, their mission, some FAQ sheets about them. Issues that have been worked on are being worked on the status of these issues. And, basically, they should be up to date, especially in the preparation for the meeting that takes place every three to four months in a common format with regular overall reports. And those reports on the efforts should be made available. Now, I know they

could be made on the Internet. They could be made in a different format or in a special report that, basically, is given maybe to the board or -- but also to the GAC. So at least we should have some common set of information that makes it easier. And it makes our work a lot more efficient. And we become more effective in providing at least an advisory -- we provide the advice that is expected of us.

We need -- you know, this definitely helps you and helps us understand where you are, where we are, how we fit in the whole puzzle, how we could help you solve the puzzle that you keep working on resolving as you move forward. And, especially, it helps us with planning the meetings as we move forward.

Thank you.

CHAIR DRYDEN: Thank you very much, Lebanon.

So I think this is a good concluding point for us in our exchange today with the board. There is no secret, I think, that there is an enormous volume of activity that's happening at ICANN. And from the perspective of the Governmental Advisory Committee, and especially since we've been so focused on the gTLD program and getting advice in to influence the decision making in relation to that program, we are really having some challenges in keeping up with the pace of work and the volume of work and identifying readily and easily where we need to focus, how to prioritize issues, what are the key issues that are relevant to governments and from a public policy perspective? So, really, I think what the GAC wants to do is invite others in the community to help us

solve this problem. This is not a GAC problem. And it's not something we can address without working with others. And, at the same time, we do need to have more robust internal processes in place. And we are very much on track to doing that very thing. So I think this is a good place for us to conclude.

Do you have any final remarks, Steve, before we close this session?

STEVE CROCKER: Nothing except to say thanks on behalf of the board. Pleasure to be here. And thank you for a vigorous and full exchange. And we look forward to seeing what I expect will be a massive communique this time.

CHAIR DRYDEN: Thank you. I'll take that as a compliment about our communiques. So thank you from the GAC to the board.

And a couple of points of relevance to GAC members, there will be a meeting for African GAC members immediately after this session in this room. So, if everyone could please cooperate and exit this room quickly and allow our African colleagues to have their meeting.

For the GAC, we start at 9:00 a.m. tomorrow. There is also a GAC/board cocktail about to take place. And let me just find the location. It is in the SB foyer. So let's join the board there for some cocktails.

[END OF TRANSCRIPTION]