
CR – GAC / BOARD Open Session

Tuesday, March 13, 2012 – 16:45 to 18:15

ICANN - San Jose, Costa Rica.

HEATHER DRYDEN: Good afternoon, everyone. Let's get started. We're waiting for Steve to arrive. But, in the meantime, Bruce has kindly agreed to co-chair so that we can begin our session today of the GAC and the board.

So, as always, welcome to the board. And thank you for agreeing to meet with us again this week and to have this exchange. We have a number of issues that we're proposing to discuss today. And we'd like to begin with law enforcement agencies and the RAA negotiations and, along with that, compliance issues. We found that some issues relate to the RAA as well as being picked up as part of the WHOIS review team efforts. And so we're tending to group those together.

So is that okay to start with that?

BRUCE TONKIN: Yeah, just go for it. Yeah.

CHAIR DRYDEN: Okay. To start off us, I'll look to New Zealand to begin, please.

NEW ZEALAND: Thank you, Heather. Yes. I wasn't quite sure I was ready to lead this off. But I'm happy to do so now that you've advised me. I'd like, first of all, to note that, speaking from a New Zealand perspective, not on behalf of the GAC, that there does seem to be have been a distinct shift to an approach from the board as a whole to the concerns of the GAC recently.

And that, from a New Zealand perspective, again, not necessarily from that of the GAC, is appreciated.

However, it's New Zealand's view -- I don't know that I'm speaking entirely on behalf of the GAC here -- but it's certainly our view that the most serious issue -- is that not loud enough? I need to speak more closely.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

It is our view that the most serious issue facing ICANN at the moment is its failure to enforce its own contractual arrangements. The lack of oversight and enforcement is becoming a very serious issue. And it cuts across all of those issues that Heather was outlining, which is, I guess, why I'm leading off at this point.

ICANN is a model of a self-regulating industrial organization, institution. And its failure to perform this function adequately is a matter of global concern across the Internet and wider. And we all know what some of the consequences of that are.

The failure to do so is damaging to the clientele of the DNS system. The users of the domain names have severe problems because of the lack of enforcement. We've heard this from ALAC in a presentation this morning. And, in fact, ICANN's own ombudsman has pointed out his frustration at the failure of ICANN to self-regulate adequately.

The failure of ICANN to secure the IANA contract should be regarded as being symptomatic of this.

There are very, very clear signals in the requests for proposals from NTIA, which outlined the need for an appropriate oversight and a regulatory structure separate from the operational function.

This is a widespread model within industry self-regulation. And it is absolutely essential. It may well be expensive. But there is no reason why domain names should be kept very, very cheap at the expense of a service for the constituency that uses those domain names. If it costs money to regulate properly, then that money should come out of the system. It should not be a problem. It's not that expensive. And domain names are extraordinarily cheap, considering their value to the community.

So I would just like to note that there is a way forward. The reason that that particular constriction was written into the NTIA RFP came from suggestions actually -- and I'm proud to say from New Zealand -- the way that New Zealand dot NZ is operated. I would suggest that it would do the ICANN board and ICANN staff some good to review how an operation such as dot NZ runs and see if that can be applied in this context. But let me return to my main point, which is it is a failure to

enforce contractual obligations that is a major problem for this organization. Thank you.

HEATHER DRYDEN: Thank you very much, New Zealand. Would someone like to respond, or should we continue with our comments? Rod?

ROD BECKSTROM: I guess I can hold the button down.

Well, thank you, New Zealand, for sharing your views. I'm sorry. And I would be -- I think the question of compliance is going to come up at some time, if you'd like me to make some comments on the investments and the progress we're making in compliance.

So there's a number of steps I've taken as CEO to improve the compliance functions. Obviously, it's a challenge with over 200 million domain names out there. And, particularly, we have responsibility and compliance for over 100 million directly in the gTLD space but also handling complaints beyond.

The first thing I did was, when I came into the organization, compliance was part of a stakeholder group. And that's a little bit like having the policy shop and the operation shop in the same place. The same group that was serving registries and registrars was also charged with the compliance function. And I felt that was not an appropriate separation of duties within the organization.

So the organizational change that we made was to move compliance from being in stakeholder relations to being managed by the general council, not as a part of the legal department, as a separate function, a separate group, but under the same management. And that was done also to keep it away from new gTLD functions, which I ended up putting under the chief operating officer. So I didn't want to have a compliance underneath the new gTLD -- group that would be managing new gTLD applications as well.

So -- and the goal there was to leverage the strengths of John Jeffrey, who is an extremely good recruiter and manager, and also to have the ability -- have a closer relationship between compliance and legal so that legal action could also be considered as an alternative when necessary in compliance functions. I certainly wanted to see a more aggressive posture as a CEO. I think, as you've heard me quoted

before, my statement was compliance is not strong enough at ICANN until we hear squealing from some parties in the community. Or complaints. I have started to hear those complaints in the last six to nine months. And my direction to compliance team from a long time ago is you've got to turn the heat up until there's real discomfort. But, of course, only appropriately, following the contractual rights and provisions.

The second step that we took under John's leadership was to hire a director of compliance, Ms. Maguy Serad, who has managed very large compliance functions in large corporations. Because I knew we were going to have to scale the program, particularly with the introduction of new gTLDs as well as with the simple organic growth of the domain name industry. So Maguy was brought on board roughly a year ago. I put John in charge in early 2010, so roughly -- or, actually, mid 2010. So just over a year and a half ago.

Maguy was brought on board about a year ago. And the group has grown from three people, when I put it underneath John Jeffrey's management, to 12 today. And so we have invested in the area. The plan for the next year, I believe, right now, the draft is over 30% growth again in investment, in compliance. And then there's a scaling function that compliance will grow when new gTLDs are added to the root.

The fourth step is to improve the systems for compliance. Because it's not just about management, and it's not just about human resources. It's about the quality of the systems.

And where the GAC can be helpful to us is we're presently designing those systems and the data that they will collect and the analysis that will be performed and the presentation of information for decision-makers. So we would value the input of the GAC on what kind of data you would like to see out of the compliance management system that we're building. And so, if it's possible at some point in time, we would very much like to have our director of compliance, Maguy Serad, present to you or a subgroup of you, however you wish, what they're working on and to have a dialogue and seek your input and thoughts on what you'd like to see. Thank you.

HEATHER DRYDEN:

Thank you, Rod.

Are there any other remarks on the issue in particular of compliance at ICANN? Contract compliance and the compliance function?

I can see New Zealand and U.S. Okay. New Zealand?

NEW ZEALAND: Just to say that New Zealand will certainly be involved in assisting the GAC to provide some advice along those lines. Thank you for the invitation.

ROD BECKSTROM: Thank you.

HEATHER DRYDEN: Thank you. Okay. So then I have U.S., Australia, and U.K.

UNITED STATES OF AMERICA: Thank you, Madam Chair. And thank you, board members for entertaining these -- these subjects. And thank you, Rod, for your outline.

I guess -- and it's -- I'm coming at this a little backwards in my notes, so bear with me. Because compliance was sort of at the end of my presentation. But, to follow up on what Frank so capably said -- Frank from New Zealand -- so capably said, the reason we're focusing so much attention on it, as our chair noted at the outset, we are seeing just very, very close linkages between the one initiative that is on our list as a high priority, further amendments to the registrar accreditation agreement, which is underway. We see, also, a very close link to the excellent recommendations coming out of the WHOIS review team draft final report, and then contract compliance. But, if I could underscore a point, the compliance function is certainly a critical component. But it is the contracts themselves that have to be airtight. It is the contracts that have to be tightened up. The contracts. All of those terms and provisions. The bar has to be elevated.

That is our goal. That is what we are trying to bring to the table. Not only in the GAC LEA recommendations. But we know there have been some other very, very constructive suggestions put out by the community as to how to make improvements in this particular contract. There are other contracts. We won't get into those today. But just to focus on that. Because, quite honestly, the current RAA has any number

of large loopholes. And that is regrettable. It's just a fact of life. We think it is our shared goal -- we would assume that you would see that as a shared goal that we should close every single one of those loopholes, one of which is quite glaring. It pertains to WHOIS accuracy.

So there are a number of points that we think need to absolutely tightened up, cleaned up, raised to the very, very highest level. And then we can focus on the compliance of those provisions. So I think that's how we see those things very, very closely connected.

Appreciate your overview as well as your invitation. I know that there has been some discussion of whether, you know -- and, certainly, I believe the WHOIS review team used this terminology. Contract compliance needs to be considered a very strategic priority for the entity.

And in some sectors, in some other activities, they are not only considered a strategic priority; but they are independent. So that there is a real identity for contract compliance that stands apart. So I just wanted to sort of reinforce some of what my colleague from New Zealand has already said. Thank you.

ROD BECKSTROM:

Thank you very much. And just acknowledging that I think that your -- the GAC's intervention and views in Dakar were successful in stimulating very active dialogue about the RAA agreement. And absolutely agree you have to have a good contractual framework. And then you've got to have good people and good systems and good practices. And one of the concepts we use is that we look at this as a risk management and slash quality control type of problem and very broad-based and one that we need to keep working on and improving and going through successive cycles. So thank you for your engagement and support, and we look forward to having the discussion with New Zealand and other countries on your views of what kind of information you'd like to see. Thank you.

HEATHER DRYDEN:

Thank you, Rod. Australia, please.

AUSTRALIA:

Thank you, Chair. And thanks, Rod, for your responses to these questions. It's very useful.

I do want to go back to the point, I guess, of the independence and the perception of independence of the contractual function within ICANN.

As my New Zealand colleague pointed out, ICANN's primary mechanism of delivering public policy outcomes is largely through its enforcement of contracts. To the extent as I understand it, that there are consensus policies, these are largely referenced through the contracts anyway in terms of enforcement. So the contractual compliance function is really critical to delivering public policy outcomes such as WHOIS, for example. So I really can't emphasize enough.

And I believe in -- from what I've seen, from responses I've seen, from my position on the WHOIS review team and so on, I believe there is a perceptual problem here, if not an actual problem, in terms of the location, the structural location of the compliance function.

So the GAC has previously given advice. INTERPOL has written to ICANN and so on. Several elements of the community have written to ICANN all focusing on resourcing, clearly, as a major issue.

But, in addition to that, I think we need to look at the way that the compliance function is actually set up.

So, as my U.S. colleague said and my New Zealand colleagues have said, in terms of an independent structure, one thing that the GAC is increasingly focusing on in the ICANN context, as the people -- the governments in this room part of their job is to defend the ICANN multistakeholder model outside of the ICANN room, is focusing on best practice. So we'll come to conflict of interest and some other areas where there has also been this sort of advice.

But in this area I strongly encourage the board to look at best practice in terms of the way that it structures its compliance functions.

Just having had a chat briefly before this meeting, there are examples in multiple jurisdictions where there are entities quite similar to ICANN, which take a funding -- which its funding base, essentially, comes from an industry that it has a role in overseeing or regulating. And, in those cases, there is a clear structural separation. There are either separate entities set up to do the compliance work, in some cases with separate board of directors who do not have representatives of the funding or

regulated communities on them. Instead there are auditors, people with contractual compliance experience.

So it's really a strong encouragement for ICANN to start looking very closely at its compliance function, not just from a resourcing point of view and a tools point of view, although they're extremely important, but to also look at the sort of underlying fundamental structures.

HEATHER DRYDEN:

Thank you Australia. I'll allow Rod to comment briefly. And then, Bertrand, I think you want to comment on this point. And then U.K.

ROD BECKSTROM:

Thank you, Australia. My observation would be, from an operational standpoint, right now it's important that we just focus on execution in the organization. We've got major changes underway already. The new gTLD program will almost double the financial size of the organization and tremendous complexity of execution. In total -- I think that we should all remain very open minded on structure. And there's different ways to structure the function whether internally or externally. I don't have a fixed view on that. And, clearly, that would be a community dialogue and discussion. But I would just share, as a CEO with experience running the operations and gearing it up, it's on a good trajectory now, in my view, in significantly being much stronger than it ever has been in ICANN's history. It's probably good to keep building on that for a while. And, if there's going to be a public policy process, to maybe look at another structure or PDP process or something, that could well make sense. And, clearly, that's up to the community and the board to decide.

From the operational standpoint, I can tell you, I think the key is that we -- that we keep this successful execution that's developing and enhance the team, that that will lead to greater success. Because reorganization and moving out and spinning out something, which I've done many times in my career, takes a very large amount of time and energy. And you can lose productivity in the meantime. And I see Maguy Serad, our director, nodding her head in the background. But I just hope parties might take that into consideration in the deliberations. Thank you.

HEATHER DRYDEN:

Thank you, Rod. Bertrand.

BERTRAND DE LA CHAPELLE: Thank you. Just a follow-up question -- and sorry to take the turn of the U.K.

You seem to have a very precise set of examples in mind. And it's just a very open request and very interested request. If you and other GAC members could collate, not an extensive list, but a few very concrete cases so that it could be a basis for discussion, I, personally, would appreciate that very much.

ROD BECKSTROM: One other tiny comment, Australia. As you know, I've been known for being concerned and sensitive to conflict of interest issues. I have no concerns whatsoever about any untoward engagement or involvement of the board or the community in the compliance function that I have seen or witnessed. I feel it's being run very well, very professionally, very independently inside the organization. Thank you.

HEATHER DRYDEN: Next I have U.K.

UNITED KINGDOM: Thanks very much. And welcome to the board.

All the points have been made already, so I'm not going to repeat them. But I just wonder, actually, if externalizing the compliance function was considered as an option. When, as the president described, there was a reassessment of the compliance function, was it considered as an option? And, if it was, why was it not followed up? Thanks.

ROD BECKSTROM: United Kingdom, it was not considered simply because I have an idea of how much effort and time that would take. And, given the other priorities for the organization, including getting compliance working, I simply didn't consider it as an option because I thought it would slow the progress down, given where we were. My key was to get leadership in, systems in, processes, and execution first.

STEVE CROCKER: You got me thinking about this for a minute. There was a question in my mind of, if you set up an external group, where does the funding

come from and the management and oversight of that? Maybe there are clean, simple, straightforward answers to all that. But, just in terms of having a good clean model to think about, I'd be interested in an offline separate time.

HEATHER DRYDEN: Thank you very much.

I think we can move onto the RAA negotiations, which is a related issue. I think we had a few questions or observations to make in relation to that. I'm looking at Australia, if you wanted to make your points.

AUSTRALIA: Sure. I'm back again.

So I guess I would start at this one by reemphasizing the comments from the U.S. earlier that this is part of a number of issues which we see coming up again. And we see a bunch of linkages, so I'll just highlight those, first of all. As the RAA negotiations, the work of the WHOIS review team, the compliance function, and also conflicts of interest, which is a separate issue. So we won't go there. But we see linkages between all of those areas.

And so I guess I would just start by reemphasizing, although I may not need to, the importance that the GAC places on the law enforcement recommendations. And I would say, while we had expected to turn up here to see the text of actual amendments from -- again, speaking just as Australia, I am extremely encouraged that this is being treated very seriously now and the negotiations are underway. So thank you very much for that.

From our point of view, I guess, we're not party to the negotiations, obviously. So we have seen the progress report. We've discussed that briefly with the GNSO the other day. There appears to be, in principal, agreement on a number. And a number of other ones are getting relatively close. Given that the board is essentially a partner with the GAC on this, having instructed these negotiations to start and put a deadline on itself, I'd actually be interested in views from board members about the progress. Do they share our optimism that this is coming close? Are they concerned that there isn't text available just yet? Is it a similar view on the board to what I've just expressed?

HEATHER DRYDEN: Thank you for that question.

Who would like to respond?

STEVE CROCKER: The most knowledgeable people are staff at the moment, I think, or the registrars. So that's probably who should respond. I think --

ROD BECKSTROM: I'm going to ask either John Jeffrey or Kurt Pritz to share your -- an update for the GAC, please. There's supposed to be a hands-free mic

KURT PRITZ: This is Kurt Pritz. Thank you, everyone, for taking part in this.

Our joint view is that we've concentrated the negotiations on the law enforcement recommendations; that there's been agreement in principle on changes for at least 11 out of the 12 law enforcement recommendations; that where there was vagueness as to our understanding of what the law enforcement recommendations were, we met with law enforcement face-to-face. And, to gain clarity for that, we also included the registrars in those meetings or they included us; that, in the case where a registrar concession or agreement did not fully meet the law enforcement recommendation, we have not yet agreed to that in the contract negotiations. So ICANN continues to push with meeting fully the law enforcement recommendations, although the negotiation is continuing. And so we can -- we expect a conclusion on nearly all of those issues in the very short-term.

I will identify two issues as difficult. Those are the most important ones -- WHOIS validation and collection and retention of data. And we want to ensure that we want to work with registrars and work with law enforcement in parallel to ensure that, when we deliver a proposed set of amendments for community discussion, including a GAC review, that we've worked to meet the law enforcement recommendations -- you know, expectations there.

There are many other recommendations or suggestions for inclusion into the RAA. One of those has been discussed here, our enhanced compliance tools for ICANN. So ICANN has several asks. The registrars have some asks in the agreement process. They would like to see the

agreements streamlined in some ways. A GNSO team has drafted many recommendations. All of those are in a current draft agreement that's proposed that's currently being redlined by registrars. So the form of agreement we're discussing is a complete agreement that includes the law enforcement recommendations, the suggestions by the GNSO, ICANN, and ICANN's compliance staff's recommendations and the registrar's recommendations. We expect -- we've been told from several registrars that we're going to get a complete draft of that agreement back in the very near future. And the registrars' expectation is that we'll be able to close the negotiations in a few weeks.

For us, we want to work with law enforcement and others to ensure that the agreement meets expectations. So we want to take the time to do that iteration so that the final agreement, when published, will be much closer to approval and implementation. We're all of a mindset and all have a great sense of urgency that we want to finish the negotiations and complete an agreement and then give registrars incentives to adopt the agreement right away.

The discussions have been very positive, very constructive. I hope you understand that, because they're negotiations, it's very difficult to publish with clarity what concessions have been made so far because each party wants to preserve its negotiating leverage.

HEATHER DRYDEN:

Steve, yes.

STEVE CROCKER:

Thank you, Kurt. From the board perspective, we've been standing back and leaving the action, as Kurt described, to the negotiations that are underway, which is the proper thing.

We are keenly interested and watching closely. The interactions that we had in this forum last time and, particularly, with the quite vivid interactions with the EU still ringing in my head. And we took that to heart. And staff took it to heart as well. And I think everybody else in the community as well. And so that initiated this heightened level.

There's no question that the activity will continue vigorously until we reach some stable point which we're not at yet. And as I said from a board perspective, there's no question that this remains an active front

burner, pay close attention, and watch what's going on. And U.S. wants to --

UNITED STATES OF AMERICA: Thank you, Kurt, and thank you, Steve, for that -- for refreshing our memories as to your commitment. And again, we are very grateful for the fact that you have considered this as an equally high priority as we do.

And so I just wanted to reinforce that and to express our appreciation for the responsiveness of ICANN and the registrars to our overtures to provide whatever assistance we can. And by "we," I am meaning the entire GAC and all our respective LEAs.

And I think we were very, very pleased to have the exchanges in January and February, and I just want to reinforce that we will continue to make ourselves available to answer questions and to provide clarity.

It certainly strikes us that if there are any questions about the GAC LEA recommendations they should probably not be answered by either party in the negotiations but by the GAC and the LEA themselves. That just seems to cut out a lot of middleman time wasting. So we do stand ready and we can meet as often as need be so that progress can be made.

We had hoped to see in the progress report -- well, obviously, we had hoped to see text, as probably the Board had hoped to see. I understand that is not always easy but it's useful to set targets because it keeps everybody quite focused on the task at hand as opposed to getting distracted.

There's a lot on everybody's plates at the moment so I can understand why staff might get distracted. But this is a critical priority, and probably the sooner it can get shut down and put out for comment, the better, so that we can tackle other concerns.

I did want to also express our appreciation for the identification of WHOIS validation as an important enough issue to be featured as a public session on the Monday open meeting. And we are very pleased that one of our LEAs, Benedict Addis from the U.K. Serious Organized Crime Agency was able to participate. We do think that does make a difference.

We're happy to continue to participate in these kind of exchanges with other interested parties and other sources of experience and information.

So again, I wanted to reinforce that we stand ready, but we're motivated by a desire to get closer to the goal post.

We were very gratified in meeting with the GNSO that the Registrar Stakeholder Group was quite clear that they are committed to this, so I take that as a very, very hopeful sign. But we need to manufacture -- we're eager to move beyond hope so that everybody has a deliverable that is responsive to the bottom-line concerns.

Thank you.

HEATHER DRYDEN:

Thank you, U.S.

I have EU Commission and then Bertrand.

EUROPEAN COMMISSION:

Thank you, Madam Chair.

I just wanted to express the appreciation of the Commission, as has been expressed by others, for the work of the staff and also for the (indiscernible) registrars in what we understand are complex negotiations.

In particular, we would like to signal our appreciation for the role of the Board to stimulate but not interfere into the negotiation, which is, by the way, exactly the position of the European Commission and of the GAC. And on this, to reiterate what my colleague from the U.S. has said the Commission stands ready to provide any kind of information, any kind of nonoperational support, because again we don't want to interfere into this negotiation but if there is a need for clarity, we are here. In particular, because we understand that the one item on which apparently there is not even agreement on principle concerns that the protection, privacy, data retention, et cetera. And our understanding is that perhaps the EU approach to that matter may have raised some questions which should be asked to those who are experts in those

question, which for the most part -- excuse me, but for the most part is the European Commission as implementers of the EU law.

I would like, however, to ask a clarification to the staff of ICANN, because if I understand correctly the presentation on Mr. Pritz, the registrars are expecting a draft text in a few weeks. Is that expectation of the staff as well? Is it a mutual expectation, a shared expectation? Or is this just an evaluation of one part of the negotiation?

Thank you very much.

HEATHER DRYDEN:

Thank you, EU Commission.

Bertrand, please.

BERTRAND DE LA CHAPELLE:

Well, without preempting the answer that staff is going to give, the question that was asked is whether we share the optimism or the sense of positive evolution.

On a personal basis, I think that is the case for two reasons, at least. One is the collective sense of commitment that I think has now percolated. That's taken a long time to do so but now it's clearly on the agenda of everybody. And the second element was the fact that after a period where all the negotiations were behind closed doors only, which meant that the interaction with other actors was in the possible at all, sessions such as the one yesterday on validation and things like that has clarified a lot of technical elements for a lot of people, explaining where the difficulties are and what is possible.

And so being always cautious about the speed at which things can go, I think both sides, both the law enforcement agencies and the registrar constituency, need to find the path that they can walk together by agreeing as quickly as possible on things that find a consensus and identifying even future work to go further in the joint objective that they do have in terms of strengthening the security and so on.

But, yes, as far as I am concerned, I am cautiously optimistic just like you are.

HEATHER DRYDEN: Thank you, Bertrand.

It might be worth just noting that in the discussions that the GAC has had and comments I've heard elsewhere in the community that there is an interest, there is an appetite to understand better the market, and in particular the resellers and precisely what that looks like to assist us in developing ways and means to strengthen the approach to contract compliance and this whole raft of issues associated with that. So something to think about there.

What I think we can do at this point is move to the next item on our agenda. Ah, I see hands. There is more to add. So Australia, and U.S. and EU Commission.

AUSTRALIA: Thank you, Chair. It's on the same topic, law enforcement amendments but not the RAA parts, which I'm interested for an update on.

I personally have sort of not seen any updates and seem to have lost track. There are two parts to the law enforcement recommendations. One is the RAA amendments, and the second is some due diligence recommendations, which are entirely within ICANN's control.

I understand that some of those are occurring, the due diligence parts, but some parts I am not aware of. There is some auditing recommendations, and also, ICANN should provide complainants a well-defined and auditable way to track complaints, publish annual detailed reports and so on.

I'm not sure where some of those ones are at and I wonder if it's possible to get an update on that.

So in the way the law enforcement recommendations were put forward in the second part, that's B, C, and D, if anyone knows.

HEATHER DRYDEN: Thank you, Australia.

Okay. U.S., please.

UNITED STATES OF AMERICA: Thank you. And I just wanted to embellish a little bit on the suggestion that you had.

You were preparing to close this session down by saying we might want to have a briefing. Actually, it would be helpful, certainly for all of us in the GAC but perhaps even for the community as a whole, and we would hope that the Board would kind of welcome this, a session that would help us understand sort of the workings of, at a minimum, the registrar marketplace. How many are there? How do they function?

We understand that there are many, many different models, business models, out there. It would be useful to understand what those different business models are and how they drive them to operate in one way or another.

We know that there are privacy service providers and there are proxy service providers who might be unaffiliated with the registrar. It would be useful to know a little bit more about that portion.

And as our Chair already mentioned, the reseller marketplace. How does it work? How did it spring up? What initiated that, the development of that?

So we think it would be good to have a fairly substantial briefing on that. Maybe, perhaps, abetted by some background documentation. And then a full-fledged session, if you will, in Prague. Because I think it would just help inform us.

The other suggestion that came up in some of our GAC exchange just before you came in was perhaps it would be a good idea for us to have an exchange, it can be just GAC/Board open, of course, or it can be others, to make sure that we are on the same page, we have a shared meaning of industry self-regulation.

So we are hearing in talking to different people of aspects of what we are engaged in. We are hearing some very different views and some different interpretations right inside this community.

So it would be useful to kind of get us to a point where everybody is quite comfortable with the meaning of the concept of how it works inside ICANN. So I would like to put that out as a suggestion also, perhaps, for Prague.

Thank you.

HEATHER DRYDEN:

Thank you, U.S.

Steve.

STEVE CROCKER:

Interesting thought. As it turns out, it intersects with and touches on some recent events.

When I stepped into the role of chair of the board, one of the things that was very high on my mind was the board could use some training on some of these issues as well.

We actually initiated a series of internal training activities, and one of them included almost exactly what you're talking about, what is that secondary market? How does all that work? What is the relationship of the sellers and resellers and so forth?

Ideally all that would be packaged up and available. It needs to be evolved, but it very definitely resonates, and there is some of the experience that we got out of that that could be put together. Some of it, we did it in Dakar and so we actually had some African input as well that was more specialized.

And then just to segue slightly, I learned from Olivier that the ALAC has been pushing hard for the creation of an ICANN Academy which is training more broadly for people coming in and taking positions in the various councils and so forth. And to me that springs from the same motivation of it would be good to get some background on topics that are important.

So I think there is common cause from a training point of view more broadly. I don't want -- I think it's important to pursue the specific things alone so they don't get balled up in a broader thing, but I think the other is also. So in my mind, there are sort of two tracks to pursue: the specific one you are talking about, and then it touches on this other.

I am very cognizant that the time between meetings that varies between three months and five months is going to be on the short side

this time, and so preparations for Prague are going to be squeezed. And an additional -- I will just make another observation. I am hearing there is a ministerial scheduled for Prague; is that right?

So I don't know what the scheduling complexities are going to be, but we can sort of work on that.

HEATHER DRYDEN:

Thank you, Steve. It's something that's under consideration for the Prague meeting.

With that, I think we can move -- EU Commission, please.

EUROPEAN COMMISSION:

My apologies, Madam Chair, but I don't think I got an answer to my question, which I will repeat.

Mr. Pritz has told us that the opinion of the registrars is that they would have an agreement in a few weeks' time. I asked whether that is also the assessment of ICANN staff.

Thank you.

ROD BECKSTROM:

Mr. Pritz -- Kurt Pritz is a member of ICANN staff. So we can't commit to a specific time frame. We can commit to continue putting intensive efforts into this, but an outcome I think depends upon the parties reaching a certain state.

In terms of the document, we will seek to get that done soon.

Kurt, can you please -- Are you still at the table? There you are. Thanks. Go ahead.

KURT PRITZ:

And certainly, and so we are very optimistic about the registrars' prediction that we will get to agreement in a few weeks. And we think we will with this clarification. On many of the -- This is the reason why we're optimistic, is that our most recent trading of agreements, ICANN gave the registrars a full agreement with all the recommendations, like I said from the GNSO and others. So they have had a lot to digest.

They are essentially done now with that task, they tell us, and have considered the complete agreement.

So we're heartened that we are going to be able to get to conclusion on many, many of those issues.

My most important clarification would be that they are about the most important issues that WHOIS validation and the collection and retention of data are very important to law enforcement. And so we will continue to push on that until we're satisfied and we think our customers on that are satisfied and continue to work with all parties so we can make sure we get to a solution on that.

So we think it's most important to get to good solutions that improve the situation right away with WHOIS validation and data collection, those being the most important to law enforcement. And so we want to ensure we have the time reserved for that.

So I hope that's helpful.

I also want to say to the United States to thank you for your comments and also say that we're not managing this on a priority list at all; that there's competing -- there's things competing for ICANN attention, that certainly John's team has its full attention on it and the ICANN staff, every time there's something to push forward on this, we are not letting it compete with other priorities. We're dropping that. We're doing that first.

HEATHER DRYDEN:

Thank you, Kurt. We do need to move to the next item on the agenda. So next I propose that we talk about some text that the GAC provided for the Applicant Guidebook. There's some issues we would like to raise with respect to that. And then we move to ethics and conflict of interest. And then we have various questions and issues to raise in relation to new gTLDs.

So regarding the text that was provided for the Applicant Guidebook, some changes were made to that text, and then it was published in the Applicant Guidebook. And so the GAC has questions regarding the procedures in place or that weren't in place that would allow that to happen and what the consequences of that are.

So I'm going to turn to Germany to make some points with regard to that.

Thank you, Germany.

GERMANY:

Yes. Thank you, Madam Chair.

I just want to raise some question in regard of, as you already mentioned, in regard of our GAC advice on new gTLDs.

According to a Board request, the GAC developed language for three options of GAC objections on new gTLDs. After a thorough and partly controversial discussion in Dakar, GAC managed to reach a consensus for proposed language and published this new language in the annex of its Dakar communique.

We are now a bit surprised that the language has been amended by ICANN and it's not fully reflected in the latest version of the Applicant Guidebook.

The amendment concerns a very important part of our work; namely, the GAC advice and the procedure and consequences if the Board does not follow GAC advice.

We are concerned that the new text might suggest that a rejection of GAC advice relating to a specific application can be summarily rejected in this way without a consultation as required under the bylaws when any GAC advice is rejected.

We would therefore ask the Board for its motivation for its amendment, or the staff, what the motivations for this amendment. Further, it would be interesting to hear whether the Board shares GAC's interpretation that also regarding GAC's objections to the new gTLDs, there will be the consultation foreseen in the bylaws if the Board decides not to follow our advice.

And last but not least, we fully recognize and appreciate the pressure under which the ICANN staff has been operating during the past months, but also on the procedural review, we would have appreciated if we could have been consulted if substantial amendments of our GAC recommendations are made.

Thank you.

HEATHER DRYDEN: Thank you very much, Germany. And to clarify, the text that we provided was in relation to controversial and sensitive strings and how the GAC would advise in relation to that in the guidebook.

So is there a response from the Board side?

Bill. No?

STEVE CROCKER: Bill Graham?

HEATHER DRYDEN: He is saying no.

BILL GRAHAM: In terms of the alteration of the text --

(Off microphone).

>> Kurt. Sorry.

HEATHER DRYDEN: Kurt, could you respond, please.

KURT PRITZ: Certainly. Thank you.

So there's no intent to change the process foreseen by the GAC or the way that the GAC advice would operate. In fact, the intent was quite the opposite, to reinforce the importance and role of the GAC. But we were incorrect to make that change, especially as you state, without consulting with the GAC.

We're open to ways to correct any misperceptions that are created in the guidebook and to take actions that will reinforce or clarify the process the GAC has developed in the guidebook in some way that the GAC sees fit.

Germany and I had brief discussions the other night about ways we might work to clarify it, but of course we got to no conclusions. But like I said, we're open to taking direction from the GAC and a way to correct any misperceptions that have been made.

I've also talked to Jamie Hedlund to ensure that we can consult with the GAC in the future before changes like this are made in the future.

HEATHER DRYDEN:

Thank you, Kurt.

Chris, did you want to add to that before I give the floor to the U.S. and U.K?

CHRIS DISSPAIN:

Yes, thanks, Heather. There are two issues, as I understand it. One is the existing document and the changes and one is the process for dealing with it in the future. With respect to the existing document and the changes, tell us what you want it to look like and we'll fix it.

In respect to the process, that needs to be worked on.

HEATHER DRYDEN:

Thank you, Chris.

U.S.

UNITED STATES OF AMERICA:

Well, thank you, and thank you for the explanation. I think I would like to offer what I would believe would be a very simple and straightforward solution which would be to remove the edits that were placed onto the GAC text by the staff. Thank you. That seems to me to be the most simple.

HEATHER DRYDEN:

Thank you, U.S. I have U.K. and then EU Commission.

UNITED KINGDOM:

Thank you very much, Chair. I think it would be important to establish clear operational guidance and procedures in situations like this. And I'm not just referring to the GAC but across the ICANN community. If

there are proposals being negotiated and text or some proposal or something is going to the staff and then it doesn't -- staff's trying to integrate it in a wider document or a situation like that but find it difficult, there should be clear operational guidance of how to handle that situation so that it doesn't create mistakes. It's just basic management practice that establishes clear guidance. Everybody knows what to do. If it doesn't quite work, go back, consult, get agreement on it fixed, tweaking the text or whatever it is and then go back forward.

So across -- If those operational guidance procedures are not already in place so everybody knows, the staff knows, they should be, or reviewed and awareness promoted of them.

Thanks.

HEATHER DRYDEN:

Thank you, U.K.

EU Commission.

EUROPEAN COMMISSION:

Thank you, Madam Chair. Simply to signal, for those who don't know, that, in fact, as the board knows, there is a Board/GAC working group which has been looking specifically at how the GAC and the Board should interact when the GAC give advice with a very precise work flow that has cost all of us quite a bit of effort to develop.

So I would strongly recommend for the future staff follows the procedures that the GAC and the Board have agreed to.

By the way, in this particular case, I fully agree with the U.S. suggestion, which seems to me wonderful in its simplicity. Just remove the text that has been add and go back to the text that the GAC provided.

However, on top of this, I would like to reiterate German question which I'm not sure has been answered, which is do we have a common understanding that GAC advice on controversial new gTLDs, in case of rejection by the Board, will trigger the normal bylaws provisions when rejecting GAC advice? I will feel very comfort to hear a confirmation of that; that we are under no misunderstanding that in case the Board

rejects GAC advice on controversial new gTLDs, that will trigger what is foreseen in the bylaws.

HEATHER DRYDEN: I'm hearing the answer yes at the table.

So Norway, please, and then I think we can move to the next topic.

NORWAY: Thank you, Chair. It's just a comment. So thank you, Kurt, for probably a long answer for just change it back.

And thank you, Chris, for pointing that out. Thank you.

HEATHER DRYDEN: Thank you. Okay. So the next topic is regarding ethics and conflict-of-interest issues.

We had a few observations to make with regard to this topic. And, first of all, that it remains something of significant importance for the GAC. So we wanted to ensure that that was a shared priority with the Board. And we also have questions regarding the delay in providing some of the items that were promised regarding ethics and conflict of interest.

EU Commission, did you want to add to those remarks?

EUROPEAN COMMISSION: Madam Chair, I think you captured the main question that we have been discussing within the GAC.

Perhaps to clarify, to be even more precise, some of you know, we have been discussing this openly in the past days, the Board had set a target deadline for adopting a new conflict-of-interest policy in March. It has now been announced a public consultation on proposed changes has been announced, working groups have been created. I would like to stress and speak on behalf of the GAC that we do appreciate the work that is being conducted. We do realize that it's complex work.

At the same time, we are a bit surprised that such a delay of at least three months, because we understand that before Prague, nothing will be adopted by the Board, and even Prague is not certain at this point in time.

So we are a bit surprised why this delay took place without an explanation? At the very least, we would have expected a clear explanation of why this delay took place. Even if only in the form, look, it's very complicated and we needed more time, which is fair enough. But delaying without an explanation given the relevance of the topic is difficult for us to accept.

Thank you.

HEATHER DRYDEN:

Thank you, EU Commission.

Bill Graham.

BILL GRAHAM:

Thank you, Chair.

As you know, and I'd just like to remind you there are three parts to the ethics and conflicts review that are now under way. The first is the review of ICANN's governance documents and practices, and that's being undertaken by our longstanding legal counsel. The second is a review of ICANN's availability of governance documents as well as a comparison of ICANN's governance practices to that of other organizations. And that is being performed by new counsel.

And a third is a review of ethics practices in ICANN by a panel of international experts.

Now, the early discussions with our advisors indicated the process would be more challenging than we had expected at the time of the Dakar meeting, and we also discovered it made more sense to perform the work in consecutive rather than concurrent phases.

We spent quite a long time -- and again, more than estimated -- with clarifying the questions and tasks being referred to these advisors, and it took some time to identify and recruit the right outside experts for the third task.

In hindsight, we probably should have posted an update to the schedule to make sure that the entire community was aware of these developments and delays. Looking forward, we fully expect the tasks

will be completed by Prague. Work has been progressing and improvements have already been introduced since the efforts began many months ago. There was a session, public session, yesterday where we had the counsels responsible for the first two tasks present the work that they are doing and updating. And as I said, we should have all of this done by Prague.

Thank you.

HEATHER DRYDEN: Thank you for that, Bill.

Did we have any other -- Okay. EU Commission, did you want to follow up?

EUROPEAN COMMISSION: I would, but I'm happy to leave my place to other colleagues if they want to intervene.

HEATHER DRYDEN: I see Norway.

NORWAY: Thank you, Chair. Just a quick follow-up on this issue. And thank you for the explanation, Bill, for the delay.

We just -- Norway would just like to underline the extreme priority that we feel that the conflict-of-interest policy and implementation should have. So we acknowledge that you have put that as a priority, but I think from our perspective, we would also like that to be even higher on the priority list.

Thank you.

HEATHER DRYDEN: Thank you, Norway. U.K.

UNITED KINGDOM: Yes, thanks, but I'm -- I'd just like to echo that. And I wonder if we can actually have an update in terms of -- in the form, rather, of a paper, report, in May with a countdown to the sort of remaining steps, issues

for the various action lines down to Prague. Could we make that as a request from the GAC, that there be a paper? Perhaps the chair of the Board Governance Committee might provide that? I suggest the end of April, early May.

Thanks.

HEATHER DRYDEN:

Thank you, U.K.

I have EU Commission and Australia.

EUROPEAN COMMISSION:

Thank you, Madam Chair. Just to support the request of U.K. but to make a more general point. To echo what Bill Graham said, and this is not a criticism. Hindsight is always 20/20 as they say so, yes, perhaps you should have made an announcement.

My suggestion, the suggestion of the Commission is do treat this in terms of external communication or reporting as something for the whole community. We had the experience yesterday at the open session that participation was not as high as we collectively could have expected. And perhaps these are technical issues. We don't believe they are, but we think these are substantive and structural.

So we think the board and the ICANN staff should really make an effort to update not us, by the way, but the whole community with appropriate relevance including post on the Web page et cetera, and on the main Web page of ICANN on what is the development on this work.

And also, and this is not on behalf of the GAC but purely on behalf of the European Commission, but colleagues are free to agree with me if they want, I would like to make a more general observation.

In the previous discussion it was pointed out that there are at least two areas of activity which are clearly interlinked with one another: the WHOIS review, contract compliance, the Registrar Accreditation Agreement.

I, on behalf of the Commission, would respectfully put forward that there is a fourth element which is clearly linked to all of this which is the issue of conflict of interest and ethics.

All of the activities that you are conducting, all the reviews on the Registrar Accreditation Agreement, on compliance, et cetera, will not produce the desired results unless structurally the organization puts in place a policy and rules, and I add should enforceable rules, clearly enforceable rules that ensure that conflicts of interest are avoided, that ethics is at the highest possible level, et cetera, et cetera, et cetera.

And this is also an encouragement if there is a need, maybe not, but better safe than sorry, to ensure that these issues are not treated as silos. They should be treated all together in a structural manner.

Thank you very much.

HEATHER DRYDEN:

Thank you, E.U. Commission.

Bruce, were you to respond to the request from the U.K.

BRUCE TONKIN:

Yes, just responding as chair of the Board Governance Committee.

Firstly in terms of priorities, I confirm it has been the number one priority since Dakar, and it has occupied the majority of our meeting time in the meetings since Dakar. And you can see that in the minutes of our meetings.

Secondly, in terms of dates, for the request from the U.K., as Bill Graham mentioned, there are three steps or three parts, if you like, of the work we've done. The first part has been published, again without any changes made by the Board. So the material you have seen is as it was provided to us by the Jones Day.

The second part is another outside law firm that's comparing ICANN with other similar organizations. So we expect that will be the next piece of material available. And that will probably be in the sort of April, May time frame that you are talking about.

And then the final piece of material is where we have three independent experts really looking at international governance on a world scale, and I think they communicated that will take them a bit longer so we may not get that until June.

So I just want to set expectations. I don't think everything will be ready by May, but hopefully you will get another piece of material by then. And certainly by next meeting in Prague, we hope to have material from all three pieces available for review.

HEATHER DRYDEN:

Thank you, Bruce.

Bill Graham on that same point.

BILL GRAHAM:

Well, certainly on the same point of conflicts and ethics.

I just wanted to underline my statement that we have done a number of things since Dakar and I just wanted to give you a few examples.

For instance, we have formed a subcommittee on conflicts and ethics in the Board Governance Committee with three fully independent directors making up that committee. On that committee, which I'm a member of, we have considered several precise instances of apparent conflict about board members and we have increased our scrutiny and we have taken a very strong stance where there is even the slightest perception of conflict of interest.

Of course, we have already mentioned the 8th of December update -- or statement regarding how we will treat decisions concerning any new gTLD applications in an ethical manner and with great care to avoid, again, even an appearance of conflict of interest.

We also included in that resolution some post-service limitations on staff and on the Board as well.

Other achievements, we have posted a number of documents for comment. I could enumerate those, if you wish. We have instituted very strict communication rules for staff on the new gTLD program,

including restrictions on receiving any gifts, even meals or even a Coke to reduce any appearance of impropriety.

We have enhanced the dialogue at the Board level regarding the handling of conflicts of interest. And, finally, we continue to update the publicly posted statements of interest on a dedicated Web site for conflicts issues.

So I think you can see from this that we really are giving this an extremely high priority now and we will continue to work at that level going forward.

Thank you.

HEATHER DRYDEN:

Thank you. I have Australia on my list, and then I think we need to move to the next topic.

AUSTRALIA:

Thanks, Chair. And thanks to the previous comments of Bill and Bruce. I thought we had very little to say. I was actually going to say -- echo my earlier comments on the law enforcement arrangement in that this was an issue that was identified as a concern, and I'm very encouraged of all the efforts the Board has been putting into this. It looks like a very comprehensive approach, so thank you for that.

And I actually was going to say that and a specific question, but I think you may have answered it, Bruce. And my question was were each of the reports from the consultancies going to become public documents? You've indicated that the first one is, and -- So they are.

BRUCE TONKIN:

Yes.

AUSTRALIA:

Thank you very much.

HEATHER DRYDEN:

Thank you. So the next topic is related to new gTLDs. We asked a series of questions to staff and the Board a bit earlier this week, and we also have a few more questions to add to that list.

So what I propose we do is that we go through the questions. I'll read through them in order to go a bit more quickly; however, there are particular GAC members that are interested in issues or maybe topic leads on those issues and they can contribute as needed.

But if I begin at the top of the list regarding defensive applications, the question is what is the anticipated time at which the defensive applications issue will be resolved. Chris.

CHRIS DISSPAIN:

Thank you, Heather.

Well, it's, simply put, as you know, there's currently a public comment period. That is due to close on the 20th of March.

ICANN will publish a summary and an analysis of the comments.

There's a public workshop on Thursday here in Costa Rica, and there is also targeted communication going on to those most concerned about the issue.

The answer to your question is a decision does need to be made, and we'll make that decision -- we may make that decision this week, we don't know yet, but a decision does obviously need to be made, and we will do so as soon as possible.

HEATHER DRYDEN:

Thank you, Chris. Are there any questions or comments on this topic?

Portugal, please.

PORTUGAL:

Thank you very much. I will be speaking in Portuguese, if you don't mind.

Regarding this issue, I would like to raise awareness on an issue that is on the hot plate, and I think it should be revised. This refers to the way on how to make the reference to a session regarding the protection of names, especially the International Olympic Committee and the Red Cross. The problem lies that in the applicant guidebook should contain the regulation of public policies regarding the nature of ICANN. And it is

not acceptable -- it cannot be acceptable that document -- that such a document may be defined as a form of one acting as the policies for the name of each of the names that are discriminated versus other treatments and by the characteristics defined by these names. These aspects should be corrected in the first instance since, in public policies, this is an error of principles. But I would also like to stand out another issue that have -- may have liability for ICANN. Because an entity that understands, that satisfies the same characteristics of these two may bring this issue. And here we have a difficulty because the definition is not made in general terms but abstract terms.

However -- therefore, I think it is essential to have a correction made. On the other hand, we have a process implemented that is underway that is being considered by the GNSO and also by indication of the GAC so that these two concrete cases of protection of names associated to the International Olympic Committee and the Red Cross to establish technical procedures which are adequate for this protection that is underway. And, therefore, it is a good idea for it to conclude and to be applied in that circumstances. Therefore, from our point of view, this work should continue without any interruption. And, in parallel, we should have work to define this set of issues by their characteristics and not by their ad hoc singular features of collective entities that apply based on general principles. Thank you very much.

HEATHER DRYDEN:

Thank you very much, Portugal. So we did add a few questions or observations in relation to the IOC and Red Cross issue. So, to be brief, first of all, we believe that protection should be added for IOC and Red Cross without delay at the top level so that they can be -- protections can be applied as part of the first round. Also, we had heard that the board was contemplating asking the GAC for advice regarding protections for other IGOs. And so there were process questions that we had in relation to that, in the event that you were going to ask us to provide shared advice with the GNSO on that. So it was really around the procedure as to how that would happen if you were to ask for the GAC to comment in that way.

And I think those were the main points we had. Did colleagues want to add anything further on either the IOC and Red Cross or IGOs? One suggestion that came out earlier in some of our discussions regarding the IOC and Red Cross is that, if you could refer to the criteria, that that

would be a more neutral way of setting a criteria rather than referencing, specifically, the IOC and Red Cross. In other words, if other organizations were able to meet those criteria, then, yes, of course, they would qualify for protections in the same way. I can see the U.S. helping me. Please, U.S.?

UNITED STATES OF AMERICA: Thank you. You don't need very much at all. This is just a minor amendment. We actually tackled it the other way around.

So, in determining that we would, on a consensus basis, advocate, which we have done with you, which you have accepted at the top level, protection for the term -- the names related to the IOC, Red Cross, Red Crescent. It was because our rationale was that these entities enjoy two levels of legal protections that, to our knowledge, no other entity does. And so that's why we've been advancing them by name to ensure that, before the application window closes, it is crystal clear to applicants that this protection exists. It is in the applicant guidebook. Our colleague from Portugal is suggesting that we make sure going forward that the -- it is the criteria that need to be clarified as opposed to any individual entity's name, which is not a bad suggestion.

But where we are now, I'm not entirely sure we have sufficient time to make those changes for the purpose that we actually had adopted the consensus position, which is please protect these names now at the top level.

I did want to flag for you -- and I think perhaps our chair was hinting at it. And we can revisit this, if you're able to shed light. We have understood that it may well be likely that the board would ask the GAC to help the board respond to the incoming letter you have received from the intergovernmental organizations. But we have also heard that you may decide to ask the GAC and the GNSO to help you provide a response.

So we are currently in a pending mode, if you will, with the GNSO, on the IOC Red Cross request, our proposal to you. And we've had, to date, what appears to be very, very constructive collaboration. There has been a GNSO drafting team. They have shared a progress report with some concrete suggestions at the top level. Work remains at the second level. Hasn't yet been sort of broached.

But we may find ourselves in a situation because we have very different working methods and very different methods of achieving consensus or outcome or decision. And so it may well be, while we're more than happy to collaborate with any entity on any issue, it may well be this is one of those ATRT issues that were raised in the five recommendations, this goes to how do we have the GAC integrated a little bit more earlier on? Because, if it turns out that the GNSO cannot reach agreement on the GAC's proposal, well then, we may have to get back to the drawing board.

So we wanted to flag that for you, if you had not yet decided how to proceed with the IGO letters. That would be something that you might want to think about. Thank you.

HEATHER DRYDEN:

Thank you, U.S.

I think also implicit in what you're saying is the GAC perspective that, because we are a committee made up of governments and that we have, also, IGO observers in our committee, that we believe we would be an obvious place to refer to to comment on such a request.

So is there any interest in responding to this point, or shall we move to the next issue? Okay. All right. I think we can move on.

So the next topic is regarding root zone scaling and a report that the GAC had requested to receive before the round opened. And we did not receive this report. So the questions are: When will the preview copy of the expected documentation related to this report be available? And when will the final document ultimately be available? And, also, we wanted to clarify that a preview copy should go to the whole GAC and not just if we request it. And also a question on the status of that document.

So who would like to reply?

SUZANNE WOOLF:

Sorry, Heather. I'm sitting behind you. Suzanne Woolf, who has been living with the root scaling issue for quite some time now.

First, just to set the stage, I -- you know. All of this has been about ICANN continuing to work to ensure new TLDs are introduced in a manner that ensures the stable and secure operation of the domain name system. This includes coordination activities among key DNS operators and operations planning for IANA as well as compliance and other functions. So this is part of the ongoing overall planning and operational execution.

Prior to the approval of the new gTLD program, just for background, ICANN published a report. Board responds to the GAC on root scaling. And the written response will have a URL. This paper was intended to address the GAC scorecard item. And further discussion with ICANN board members and others indicated a more -- an expanded report would better address the need for definitive closure of the GAC concerns.

Now, most of that work has been done, and the results are being compiled. The report covers risks -- sorry, the report -- yes.

My apologies to the scribes. I'm talking too fast again.

Most of the work has been done. The report covers risks and mitigation to root server operations and to root zone provisioning, IANA services. And there's an appendix that compiles past reports on which the paper relies and provides other sources of authority. So the written response will be very complete on that.

A draft report will be ready for review by key board members a week after the Costa Rica meeting and with the expectation that they will review it immediately and will be furnished to the GAC immediately after accommodation of the board's comments.

We do expect interested board members to review the document immediately and discuss it through more than one iteration. On completion of the process, a preview copy will be provided to the GAC as a whole in a draft form so the changes can be made to suit the expectations of governments.

HEATHER DRYDEN:

Thank you very much. Suzanne.

SUZANNE WOOLF: And --

HEATHER DRYDEN: Is there more?

SUZANNE WOOLF: No. I'm realizing there isn't. Sorry.

HEATHER DRYDEN: I see EU Commission.

EUROPEAN COMMISSION: Thank you, Madam Chair and the commission, as I believe all of them are members of the GAC. I'm very much looking forward to reading at last this report. I would just like to remind that our request was with the report with the supporting data. So that the assessments made by ICANN or whomever ICANN would talk to to make this assessment could be replicated by us. That is necessary for us to have confidence, full confidence on the conclusions of that report. So I would just like to remind this very important element in order not to have to get back to another back and forth, which is -- quite frankly, would be tiresome. Thank you.

HEATHER DRYDEN: Thank you, EU Commission. I think we can move to the next topic, which is batching.

So the questions from the GAC are when will the criteria for the batching process be decided, and will there be public comment on the process? Also a question regarding, if batches are established, would the GAC early warning process apply to batches or to all the applications? And will the batch timelines overlap or coincide with the 60 days currently in the applicant guidebook? And also regarding a comment that there would be flexibility with regard to GAC timelines for early warning. So a request for clarification on what is really meant by the intent to be flexible.

So who will be responding to this? Chris? Thank you.

CHRIS DISSPAIN: Thank you. I'm actually going to respond to a couple of them, and Bill will respond to the others.

In respect to the -- when will the criteria for the batching process be decided, the operational details have been developed and have been reviewed here. We could decide to take action at this meeting. The board could decide to take action at this meeting or at a future time. We don't know yet. We're having a meeting about this as part of our board workshop tomorrow.

But, once the board has met, then we'll have a better understanding of when the criteria will be formalized. So, even if we haven't taken a formal decision, we'll have a better understanding of when we can do it.

In respect to the public comment on the process, the answer is no. There has been discussion, however, in -- with various parties in respect to the proposals and suggestions. And input is being taken. But there -- there won't be a public comment on the process.

HEATHER DRYDEN: Okay. I see Italy with a comment on batching.

ITALY: Yeah. We understand that you have to discuss this in the next board. And it is okay. We understand that you cannot say now if possible batches will be two, or three, or four, or whatever.

But it is important to know, as soon as possible, from the point of view of the GAC, which is also the over a lot or over the known of a lot of the batches, let's say. And then the timing for the GAC to intervene with the 60 days of early warning.

And the GAC has said that the maximum number that we can process is 500. And, therefore, it is interesting to know how this process will be shifted -- and this leads also to tell to the community when there will be a second call that -- of course, you cannot say anything today. But, as soon as the exit number of the applications will be clear, then it is important to have a medium term plan.

HEATHER DRYDEN: Thank you for that Italy. Bill Graham.

BILL GRAHAM: Thank you, Madam Chair and thank you, Italy. With respect to the batching and the early warning process, I have to say we have not taken a decision on that and likely won't until we know whether batching is required. We're certainly willing to consider batching the early warning, if I can put it that way, as well as batching the applications. So, if the applications are dealt with in batches, we'd be happy to consider asking for the early warning process to also happen in batches.

As far as the second part, which was --

CHRIS DISSPAIN: There was a comment that -- there's two distinct things here, there's the batching in how many batches will there be. And then there's the process in which you find out as an applicant which batch you're in. So the criteria for the batching is the process by which you try and claim a spot in the first batch, et cetera. And the number of batches is, obviously, entirely dependent on the number of applications.

What we're working on is the process. And, obviously, we can't do anything about the number of batches until we know how many applications there are. But the process itself needs to be sorted out. Sorry.

And the second round? That's -- that's a later question, isn't it? On the second round, the current situation is that we've -- you know, the board has been very clear that there will be a second round. But I've got some information about that a bit later on when we come to the relevant question, Heather.

HEATHER DRYDEN: Thank you, Chris. I saw a few hands go up. If I could ask Australia, as the person working on the early warning process and perhaps able to follow up on that most readily. Australia?

AUSTRALIA: Thanks for the clarification of where things are at. I guess, as you all have seen from the questions related to early warnings, we're really just trying to get our processes and heads around what's coming up. So the ones about the timing, I guess, are pretty straight straightforward. If there's batching, does that mean that we have, potentially, three or

four early warning periods? Do they overlap? Are they going to be spaced out and so on, just so we can anticipate our workload? I guess that's pretty straightforward.

There were two other questions relating to batching. Unfortunately, my e-mail on my computer isn't working. So I'll just have to remember them. But the essence, I think, was ICANN is going to do a number of due diligence checks on applicants, so relating to criminal backgrounds and so on, as part of its application assessment process.

The question -- one question is will that information be available in time for the GAC to take account of it in its early warning process? And/or its advice process?

And the second question is I understand that ICANN -- shall I do the second one now or shall we -- yeah.

So the second question is a related one to what information we will, essentially, have available to us to take into account.

And I had the opportunity to have a meeting with ICANN staff who have been helping develop an early warning portal for the GAC, which I should thank ICANN for. It's going really well. But, as part of that, I asked a question about translation into other languages. Is ICANN intending to translate the names of applications -- the strings or the meaning of the strings? And I understand that ICANN is not.

But I was just seeking clarification. Because that's going to have an implication for the GAC in its ability to -- each GAC member, in particular, to assess strings in other scripts and languages and so on. I understand the current requirement in the guidebook is that the applicant is required to provide an English translation and meaning, but only in English. And then ICANN may be doing some translations down the track but only relating to geographic string assessment and that that won't be available in time.

So I just want to confirm my understanding there, so that we're clear on what we'll have available.

HEATHER DRYDEN:

Thank you, Australia. I believe Bill is going to respond.

BILL GRAHAM:

Yes. Thank you, Chair. On the translations, I believe your understanding is correct. The IDN applicants are asked to provide the meaning or a restatement of the string in English. And this will be available in the application. Translations of strings will not be provided by ICANN. And the reason for that is that we believe information on what the envisaged context and the meaning of the string is would be best provided by applicants, not through interpretation by ICANN or a third party translator. It's very likely that the application will make very clear the envisaged meaning of the string.

With regard to providing information, the guidebook states -- and I'm quoting here -- due to the potential sensitive nature of the material, applicant background, screening reports will not be published.

So note here that, in the case where an application did not pass the background screening in the -- which is part of the process, it would simply fail. There would be no need for the GAC to provide advice on that application. Thank you.

HEATHER DRYDEN:

Thank you very much, Bill. EU Commission.

EUROPEAN COMMISSION:

Thank you, Madam Chair.

Again, on batching, I don't think I heard the answer or maybe the board didn't have a chance to answer to the question concerning -- we were told during a meeting with the staff that, due to the uncertainty considering the batching system -- and I must unfortunately go on the record saying that the Commission finds it quite amazing that such a thing has not been decided yet. We're a few days from the closing of the applications, and we don't yet know what are the procedure for choosing batches.

But, having said that, during application the staff told us that ICANN would show flexibility in the time that is given to the GAC for the early warning period. And I think we asked what is the status of that statement. Is this an official statement by ICANN? What does flexibility mean? Does it mean we'll have more time? How much more time, et cetera?

BILL GRAHAM: Well, the flexibility is an ICANN position. And it's stated in the applicant guidebook very clearly where it says, "This period is subject to extension should the volume of applications or other circumstances require."

So what that means is that flexibility is built into the process. ICANN is committed to ensuring that the GAC has sufficient time to provide thoughtful early warnings as needed. But there's also a question of balance. Because we have to take care not to prejudice the applicants who may not be subject to early warnings, that is, who just have very straightforward applications. So there is a balance in terms of time.

Flexibility also applies that it may be difficult to know what will happen or must happen in terms of timing until we know how many applications are submitted and how many will proceed to early warning. I could provide you an example, if you want, if that would help to clarify.

The example will be in the written response.

HEATHER DRYDEN: Thank you, Bill.

I have Sweden and U.S.

SWEDEN: Stealing Chris's microphone. Sorry. Thank you very much, Sharon. I just want to echo several of my colleagues here around the table, my GAC colleagues. That, of course, it's a big concern for us that this process around the batching becomes clear. And I'm also a little bit surprised, actually, that this process is not in place as this new gTLD program already started. And, as also my Australian colleague said about the early warning system, which we are trying to accomplish.

And we have an important role there. And, of course, the process around the batching -- I mean, our early warning process is very much dependent on that. So it kind of hangs together. So that's why it's very, very important for us. We need to know -- we should really, really actually -- we would have liked to know it by now, actually, how much work are we going to have. Because we also have to prepare our colleagues in our capitals, which means that we have -- it's a long process also, not only for us. It's involves a lot of process for us.

But I understand that it's on its way. I was just hoping that it would have been accomplished already.

Anyway, I just want to have a super short comment about the root scaling. I'm sorry. I wasn't really awake. I missed my chance to be on the list.

I just want to say that I hope this report which is actually coming it also will contain information about how are you going to monitor this so-called early warning and detect these problems that might occur. So how are you actually going to technically manage or monitor this system? So how it works and how we will be able to fulfill that. Thank you.

HEATHER DRYDEN:

Thank you, Sweden. And the last speaker, I think, on this, U.S., please.

UNITED STATES OF AMERICA:

Thank you, Chair. And thank you, Bill and Chris, for helping us to better understand where things currently stand. I guess I have two points.

One is during the session yesterday, the open session discussion on -- where you were providing an update. I believe I recall a presentation or a comment from the floor with an alternative -- what sounded like an alternative batching proposal. As you already confirmed you will not put your batching proposal out for comment, may I ask if you have a hard copy or a soft copy of the alternative batching proposal that was discussed so that you could consider it or at least understand it better in writing? It has been made available to us, and I have just circulated it to my GAC colleagues. So I'd be more than happy to forward it, should you be interested. I would urge you to look at it. It seems like it might not be a bad thing to have a look.

The other comment, I guess I would have to stress and join my GAC colleagues, I appreciate the commitment to flexibility and giving the GAC enough time. I hope we're making ourselves as clear as we need to. I don't believe there is a GAC government or any government that could handle any more than 500 -- frankly, sometimes we have our doubts as to what we were thinking when we agreed to that. It was just Bruce Tonkin being a very persistent salesperson. So we kind of bought that idea that 60 days, 500. If there's any overlap between the batching

within the 60 days, I think all of us -- that's just going to throw a bucket of sand in the gears. We will not be able to manage multiple batches in the same time frame or over -- I mean, that's just -- thank you. Thank you very much. I see the heads nodding. I would appreciate an answer to the other question.

CHRIS DISSPAIN:

Yeah, I'm coming. Thank you. Yes, we have got a copy of that. And the board is discussing the batching process tomorrow. And so we have that copy.

HEATHER DRYDEN:

Thank you. Brazil.

BRAZIL:

Thank you, Madam Chair.

I would like to speak in Portuguese. Very brief. I would like to highlight what my U.S. colleague and my Swedish colleague have said. Brazil is also concerned about the time periods set for the GAC efforts. I would also like to make a more general comment in the name of Brazil, but I believe that other GAC colleagues share this thought.

Many of the subjects put forward in this joint session are associated to information flow and exchange between the board and the GAC.

I believe it is worth bringing forward the message that the board could or should invest in improving this information flow with GAC because many a point brought forward here are associated to incomplete or lack of information. This makes GAC's efforts more difficult and the response to the demands of the board. Thank you very much.

NETHERLANDS:

Thank you, Heather.

I just want to come back quickly and welcome to this side of the table. But coming to the point raised by Maria. The report that we asked for, the authoritative document, which I think Suzanne explained very well that what will come. And we had asked this in anticipation of the launch of the new gTLD program, meaning 12th of January. And of course there are reasons that had not been completed then, but I would

urge very much the Board and staff that this is part of, let's say, the tracking system of all the arrangements we have and the deadlines. And that if something is not being completed, then please give us signal to the GAC; okay, it will come in a different time.

So I urge to take our advice in that sense also serious, as all our other advices.

The other question is just more informative. The status of the report, will it be issued by the Board itself for by the RSSAC? And also the question is is it also backed by the -- let's say the root operators, which we think is kind of important to have the backing of report by all the parties concerned with the root zone scaling.

Thank you.

HEATHER DRYDEN:

Thank you very much, Netherlands.

Okay. So at this point can we move on? Senegal, please.

SENEGAL:

Thank you, Chair.

I just want to ask a question to the Board. Sorry. I just want to ask one question to the Board, according the volume of information we will get for the warning process.

Is it something you can develop for -- to help developing country to be able to just monitor what's going on in ICANN? Because it needs a lot of effort from ourselves just to be able to follow what's going on on new application.

Thank you.

HEATHER DRYDEN:

Thank you very much, Senegal.

I believe Suzanne has a response for us.

SUZANNE WOOLF:

Yeah, to the question about of the nature of the report on root scaling.

The important thing -- First of all, the question about RSSAC and the involvement of the root server operators, RSSAC and SSAC both looked extensively at root scaling as input to ICANN and to the subsequent steps in the process of evaluating root scaling implications. Both RSSAC and SSAC had advice on the subject having to do with limiting the rate of introduction of new TLDs, both of which were taken into account in forming the replies to the GAC scorecard and including this report.

The report we have been talking about will be a staff product and with review by the board as we have been discussing -- as I mentioned before.

So it will be an ICANN document, but with input from SSAC and RSSAC and the entire long-time project that many of you have heard intermittent reports on regarding examining this question.

HEATHER DRYDEN:

Thank you, Suzanne.

So the next topic is applicant support, and the questions are whether there will be a foundation established to administer further funds, and how will those funds be managed, and when will details be available in relation to this concept.

Also, what additional outreach is planned or can be done in the next few weeks to parts of the world and developing countries?

And I think, Chris, you are going to respond to that? Okay. Thank you.

CHRIS DISSPAIN:

Thank you, Heather.

In respect to the foundation and how will the funds be managed, first of all ICANN will segregate the applicant support funds to ensure that there are separate tracking controls. But in respect to the concept of a foundation, we're still working on the structures, mechanisms that will be necessary in the event that we were to receive funds from elsewhere.

And so we cannot really answer the question in any detail because until we can be clear what the structures and mechanisms are, we can't say whether we're going to do it or not.

In respect to the outreach, there are significant efforts going on in respect to outreach. I'll just briefly talk about some of them. There are online ad campaigns running in the World Bank deemed developing countries, there's a Podcast, there's a presentation in the five U.N. languages, there's a fact sheet, and the pages on the new gTLD site describing and explaining the Applicant Support Program, or ASP as we're now calling it.

The Podcast I've already mentioned.

There's also -- I can't believe I am about to say this. There's also what I believe is referred to as a Twibbon campaign which will assist the community in spreading the word about the Applicant Support Program. Yes, I am going to explain that the Twibbon is a graphic symbol that can be attached to social media profile pictures to promote a cause. That means that leveraging of Twitter. There will be -- What can I think of as an earthly equivalent? Pink ribbons or green ribbons that you wear for certain causes. And there's also quick reference guide.

So there is a lot of work being done in respect to outreach. And of course all of the outreach for the gTLD program itself also contains information about applicant support.

So that's that.

HEATHER DRYDEN:

Thank you very much, Chris.

Perhaps we can move ahead to the topic of the second application round, because I believe, Chris, you will be responding to this as well.

So the questions are when will the work plan be available? What will it cover? And, for example, what conditions will mean the formal close of the first round? How will the Affirmation of Commitments review fit into that work plan? And how do batches have an impact on this work plan? And so on.

So, Chris, please.

CHRIS DISSPAIN:

Thank you.

We're not certain when the work plan will be completed but I want to stress that it is a priority, and it will have actions to address the assessments of trademark protections and root zone stability in it.

The overarching question on the second round has to do with timing, and I think there are three things that we need to bear in mind. The first is -- Leaving aside the AoC for a minute, there were two reviews promised in respect to this process. One was respect to intellectual property and one was in respect to the root zone. Those two reviews may be able to be done before the complete end of the first round, depending obviously, on how many batches there are. But if we were to decide to do that, we would have to -- we would need to go and consult with the people to whom we promised it -- so the IP community, the GAC and so on -- to see if it's feasible to run those before the absolute end of the program.

In respect to the Affirmation of Commitment review, that new gTLD review doesn't appear to be in the AoC a -- to be a prerequisite to starting a second round. But as a matter of courtesy, if nothing else, we would go and ask if that was the interpretation from the other side of the AoC.

HEATHER DRYDEN:

Thank you, Chris. I have Sweden and then Uganda.

SWEDEN:

Thank you, Madam Chair. I just have a comment.

I'm a little bit surprised again. I was surprised in my previous intervention as well, but that you kind of dare to start talking about a second round, I have to say. Because -- but on the other hand, I heard your explanation, Chris, also, that there must be prerequisites and so on. Because what we have been talking about -- and I also said, (indiscernible) telling or asking you or (indiscernible) the ICANN Board several times, that after this first round, we need a proper evaluation regarding root scalability, economical issues, consumer, trademark, and

all these kind of things. We really need to have a deep and good evaluation. And based on that one, of course, you have to -- you could plan and get information or a base for the next move.

But, on the other hand, I understand that you need to plan also. But there are quite a few prerequisite that we need to pass by first.

Thank you.

CHRIS DISSPAIN:

Yes. And I don't want to give anyone the impression that, a) we're desperate to start round two; and, b) that we aren't going to fulfill all of the bits that need to be fulfilled. I was simply trying to illustrate that it's on a continuum and there are ways that the times can shift. But, fundamentally, if nothing else, we have three reviews that we need to do.

HEATHER DRYDEN:

Thank you, Chris.

Bertrand, did you want to add to that?

BERTRAND DE LA CHAPELLE:

Yes, a very brief comment in response to what Maria was saying and what Chris responded.

This is not a spontaneous action by the Board. It is something that is coming also from the community and from a certain number of actors in the business sector or elsewhere who are asking about more certainty on the time scale for the second round. And one of the reasons why it is important to try to have an evaluation or some indication about the time scale is because the uncertainty on this time scale and when the second round might emerge is presented by a certain number of actors as a pressure on them to participate in the first one, which actually increases the number of applicants potentially coming in the first round, which brings more problems for batching and potentially more burden on the whole program.

So as Chris was saying, it's not that we are wanting to rush into a second round. It's that it is a discussion provided that the caveat of preliminary

studies and so on are followed. It is also something that is requested by the community in order to alleviate the pressure on the first round.

HEATHER DRYDEN: Thank you, Bertrand.

Uganda, please.

UGANDA: Thank you. Thank you, Chair.

I appreciate the comments on the issue of the second round, but why it's important for us in the developing countries is that outreach for the new gTLD programs has not been that intensive for the developing countries. And organizing that the deadline is close, most of whom wish to apply have to go to the financiers and look for the source for their funding. So most of them now are looking at when is the next round so they can start raising resources.

So it's important there is some predictability and (indiscernible) of when the (indiscernible) will happen. Because the late entrants have missed the first round, and now that it's late so when can I get ready to put in my application for the second round.

Thank you.

HEATHER DRYDEN: Thank you, Uganda. I think that point is well taken, so thank you for those comments.

Okay. I think we can move to the next topic, which is cross-ownership, and the questions are when will the procedure for removal of restrictions for existing registries for TLDs they operate be available? And, also, a question related to the 90-day period that ICANN has in place, and pointing out that at the end of this period, ICANN may decide to proceed with removing cross-ownership restrictions to existing registries; however, competition authorities are not bound to this 90-day period and should this not be clarified for stakeholders in order to avoid misunderstanding about this fact.

So a response would be provided by Erika, please.

ERIKA MANN:

Thank you, Heather.

Concerning your first question, ICANN intends to post a draft procedure by 13 April 2012 with Board consideration to follow promptly after the close of the public comment and reply period. So that's a pretty short period we have ahead of us and I hope it will satisfy the GAC.

Concerning your second question, we are fully aware, and we have mentioned this many time, that competition authorities are completely free to intervene at any time if there is market abuse or dominance position in place. So we are not questioning this at all. What we do is something completely different, and we would appreciate greatly if the GAC would consider the method we are looking into as appropriate and would help us, furthermore, in developing the right method.

So what we want to do is to have a process for handling requests for removal of cross-ownership restrictions for existing and new gTLDs.

So in order to lift co-ownership restriction with respect to the new gTLDs, existing gTLD operators could request an amendment to their existing registration agreement to remove the cross-ownership restrictions with respect to new gTLDs.

Any proposed material amendments to gTLD registry agreements would be subject to public comment prior to ICANN approval.

And then there's a process, and we have explained this process before, but I think it will be important. And we understand that you're worried about the 90 days, so we're happy to evaluate with you the 90-day period. If you prefer a longer day period, we are completely -- would be completely considering this as appropriate as well.

So please take in mind what would happen in addition would be a complete competition review which would be done internally by our own internal staffers. The staffers would be completely free to reach out to outside competition council, and this all would help to prepare to understand if there is an indication of any competition issue. And only if there is an indication of any competition issue, we would like to post a process so to really consider all possible option and all possible

scenarios in the right way. And this is the -- this fourth period is actually there to allow us to give us the freedom to evaluate this process.

I hope this explains, Heather, what we have in mind. So it's not to take away -- nobody from our side would ever consider this -- any capability, existing capability from competition authorities. Quite the opposite. It's a process which makes us more responsible internally to manage possible upcoming conflicts. And we would appreciate your support in developing this methodology.

HEATHER DRYDEN:

Thank you, Erika.

E.U. Commission.

EUROPEAN COMMISSION:

Thank you, Madam Chair. I assume the board is not surprised that I am reacting to this particular point.

First of all, thanks to the Board for clarifying the first question. It's very good to have a precise date, at least for the open consultation.

Concerning the second point, just to be absolutely clear, certainly the commission has never claimed that ICANN is replacing competition authorities. We all agree that is not possible. The point we made is one of perception. Just to make sure many stakeholders out there, I think we agree, are not competition experts. So I think it's important that everyone understands what are the respective roles.

On the question that I understand the request that has been put forward by the Board, I would appreciate, the Commission would appreciate if the specific request could be put in writing. It doesn't mean to be formal -- it doesn't need to be formal letter to the Commission but it would help if it was put on a piece of paper so I could bring it back to Brussels and talk to the competition colleagues, and of course to be absolutely clear, I am talking here for the Commission, and within the responsibilities of the Commission as a competition authority, not for other competition authorities.

Just as -- not a word of warning but for clarification, we would need perhaps to discuss the kind of guidance we can provide to ICANN,

because formally speaking, when the Commission provides guidance on competition matters, that guidance has legal implications. It can be used in court by parties to basically say, well, the Commission told us this was possible, this is not possible.

So we will need to discuss what would be the form whether we can provide and the form in which we can't provide those clarification. But as the first step, I would appreciate that if the points that have been raised by Erika Mann could be put on paper and shared with me here in Costa Rica.

Thank you.

HEATHER DRYDEN: Thank you, E.U. Commission. We have two topics remaining -- Yes, Erika.

ERIKA MANN: We would certainly do this and would greatly appreciate your guidance in developing this kind of notification procedure.

Thank you.

HEATHER DRYDEN: Thank you for that, Erika.

So we have trademark clearinghouse and foreign currency controls.

So the first topic, trademark clearinghouse. What plans are in place for outreach and communications around the launch of the clearinghouse? And what steps are being taken to ensure the neutrality of the clearinghouse provider? And who will be responding to these questions?

Kurt, please.

KURT PRITZ: Thank you, Heather.

So regarding outreach, this is a very important part of the task that was communicated to the potential providers of the clearinghouse; that

they have global reach, that they be able to provide validation services for trademark holders in many countries; that their project plans may include such activity as presentations at events, online materials, and publication of articles or advertisements.

The project plan also anticipates a testing phase prior to launch where rights holders can submit test data to become familiar with systems and processes. This will also create an opportunity to provide the opening of the clearinghouse and build awareness around the world.

As far as the neutrality of the clearinghouse, this is a very important question. It was a key part of the request for information that ICANN posted for potential providers; that ICANN stated that it takes the issue of conflict of interest very seriously, and it gives the utmost consideration to a respondent's relationship, businesses and intentions that have the potential to create a conflict with any roles of the clearinghouse provider.

So in line with that, all respondents have to disclose relationships that may present a really or even perceived conflict with the mission of the clearinghouse. It includes respondents that have a direct current contractual relationship with ICANN to provide registry or registrar services and those that provide services to any gTLD registry or registrar.

In the case of a disclosure of a conflict, each respondent had to submit with their proposal a specific conflict-of-interest plan. The plan outlined the mechanisms that will be used to ensure there are no perceived or actual conflicts of interest between the responding organization's role in this capacity and in ensuring the interests of trademark holders, registry and registrar service providers and individual Internet users are not compromised.

And we reserve that ICANN's exclusive right, the ability to exclude any candidate for any perceived conflict of interest.

And regarding any concerns around the operational model and how the clearinghouse has worked, ICANN has just recently completed a series of teleconferences by this group called the Implementation Advisory Group. So this is a unique ICANN success, I think, where community members from intellectual property registries and registrars got

together on many conference calls and bit a set of rules by which the clearinghouse would operate.

At the end of March, we're going to publish a paper that compiles those sets of rules. If the GAC wishes to provide specific requests for a copy of that paper, they can be accommodated.

I hope this answers the question.

HEATHER DRYDEN:

Thank you, Kurt. Are there any comments on that? U.K., please. United Kingdom yes, and many thanks to Kurt for the comprehensive answers to the questions. That's very helpful. And, indeed, there will be, I'm sure, copies of that paper on the operational issues and the outcomes of the work of the Implementation Advisory Group. And it's, actually, further ongoing work would be very helpful.

Obviously keeping to plan on the launch of the clearinghouse is critical as well as promoting awareness of it so rights holders companies know that there is this need to get in there, to contribute to populating the database. And the window for that, I guess, if you're on target for October, would be about -- what? Three or four months before feasibly the first gTLD starts getting operational. So it is a critical area that we want to watch, and intellectual property agencies and so on will be watching this very carefully. We in government will no doubt get inquiries from brand holders. So we really appreciate being kept up-to-date, and thanks very much.

HEATHER DRYDEN:

Thank you for that, U.K.

And I think we can come to our last topic. I will ask South Africa, please, to pose the question.

SOUTH AFRICA:

Thank you, Madam Chair.

There are some 31 countries that have foreign exchange controls, including my country. These countries are mostly developing countries. And the typical procedure in those countries that one requires an invoice in order to have -- to get the funds released to pay in foreign

currency. However, the application process requires one to pay before you get the first invoice. And this poses an obvious difficulty for applicants. I'm sure it's something that can be relatively simply solved. I would like to bring it to your attention.

Thank you.

HEATHER DRYDEN:

Thank you, South Africa.

Bruce, did you want to respond?

BRUCE TONKIN:

Yeah, let me just respond that the staff will take that on notice. They don't actually have someone here from the finance team, but that will be taken on notice and provided as part of the normal answers to questions on the Applicant Guidebook.

HEATHER DRYDEN:

Thank you, Bruce. Okay. So we have a series of questions. And, hopefully, we would be able to receive the written responses from the board to those questions. And I think we might have added a few. So, if you can provide a written comment or answers to the additional questions posed as well, that would be appreciated and circulate those to the GAC. With that, I think we can conclude today's short session between the GAC and the board. And thank you very much for coming to meet with us and go through a range of issues. And all the best. And we'll see you around for the rest of the week. So thank you.

[Applause]

STEVE CROCKER:

Thank you.

HEATHER DRYDEN:

For GAC members from the Asian region, dot Asia will be giving a short update and presentation in the room. So please feel free to stay. And, for the rest of us, if we could make a relatively speedy exit, that will allow dot Asia to proceed with their presentation.