
BUENOS AIRES – GAC Plenary 12 (After Lunch)
Wednesday, November 20, 2013 – 11:00 to 12:00
ICANN – Buenos Aires, Argentina

CHAIR DRYDEN: Okay, everyone. If you could take your seats, we'll get started.

Okay. I think we need to get started. I can see some of you starting to exit the room.

Please return to your seat.

Okay. All right. So, first of all, I'll just outline how the afternoon will unfold and how we are going to organize our work so that our expectations are aligned. And then there are a couple of points, I think, to cover.

So -- okay. So this next session I want to have as a brief discussion on some of the points that were either not raised earlier on in our agenda, so when we discussed our agenda preparations before the meeting or on the first day of the meeting or yesterday morning when I outlined specifically the topics that we were anticipating at that point would be included in the communique. So I want us to address those that are newly introduced. And as well, I want us to cover those issues where we haven't had enough discussion or where there's no clear agreement that we would have advice or comments in the communique, and then for

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that reason, it's also going to be difficult for us to conclude on them.

So what this means is that when I go through these topics, if I see that there is no immediate agreement that we can put something in the communique and what we would put in the communique on a topic, if I see that there's an interest in more discussion and it makes sense to continue that discussion in light of where the gTLD program is at, then we can consider making arrangements to continue discussing on those topics. But if there is no immediate clear agreement on putting something in and what would go in, then it cannot go in the communique.

This is our last afternoon. We are going to conclude by 6:00 p.m.

We have had quite a good run at it this week with having secretariat support dedicated to drafting and compiling this communique on the basis of drawing on the summing up and the outcomes from each discussion and doing that in -- certainly with the aim of being neutral in summing up. And so all we need to do is continue to support that happening and to help us in the future as well in organizing our work.

It is very difficult when an individual GAC member drafts something from their perspective and submits it late and then we are trying to agree on it, especially when there hasn't been earlier discussion. But the great news here is that we do have support. And I think they have demonstrated this week that having them

from a neutral perspective taking the summing up from our discussions and drafting so that -- so that, really, we are making adjustments to a draft communique and identifying any, you know, missing elements that really need to go in is really a great thing. So we can be really satisfied with that.

So let me just check the time. It's 20 past 2:00. So let's take the next 30 minutes to run through some of the issues that, again, either were not raised in good time for us to build a discussion into the schedule or where there was not immediate or clear agreement on what would go in the communique or clear agreement on next steps or that we need to continue to decide what we need to do with these issues for the communique. And then we will move into finalizing the communique itself. We've still got a few pieces to pull together. But you have received electronically virtually all the topics that we have identified so far to finalize that communique. And there will be a hard copy coming, hopefully, just in time for when we conclude on this discussion that we're going to have now.

So those pieces should come together, and then we'll keep adding and adding.

So before we go through the issues, could I ask Iran to give us an update on the working group so that we can also anticipate what our next steps are on that matter. Thank you.

IRAN: Thank you, Madam Chairman.

Yes, I could report you that we had our third meeting this afternoon, and we agreed on everything. There is only one single square bracket with two options on square bracket. And we have to take any of the two or alternative. But what I suggest, Madam Chairman, when the documents come, we do not go to the draft and start to redrafting the things. It would be very, very counterproductive if we start to inject new ideas. Languages are rich. We could do it in ten ways. But we have agreed on everything. Still, only we have these square bracket. So we just have those.

The remaining have been agreed. And thanks to the distinguished delegates of both sides, they have demonstrated the utmost spirit of collaboration and cooperation, and I'm really grateful to all of them. And I think the GAC in total would also appreciate all the efforts by both parties. I don't want to say who said better, who said worse, but both of them -- one thing in the square brackets is up to you and in your hands. And some people said they may be in a position to agree on one or the other, but at the meeting, not at my meeting. They want to do it here.

So it is in your capable hands. Thank you.

CHAIR DRYDEN: Thank you very much for that update.

I certainly agree with you that anything that has been agreed in the working group is not going to be reopened. And then if we focus on anything that remains in square brackets to finalize that agreement, then that is quite appropriate to do so.

So that's good news. And it's really great to hear that there was such a spirit of collaboration. I know this has been a really difficult issue, and an important issue for many of us around the table. And so with that, in that spirit of collaboration, I hope that will continue this afternoon as we finalize our communique.

All right. So with all that, we have some issues, as I mentioned, to touch upon to identify what we will do as a GAC. And just to go through the list, I have doctor and the protection of Red Cross/Red Crescent. We have not had a discussion there about what steps we would identify.

Security-related applications. I think we need to discuss that a bit more to get a sense of views around this table.

The issue of auctions as well. And then issues about due process and rule of law and procedures regarding string confusion, community, and legal rights objections. That's a long title.

Topic with a title of "Openness." Okay.

So I want to make sure that, as I say, we are identifying what it is we need to do this afternoon and what it is that we can do this afternoon.

Okay. So let's start with doctor. In our discussions earlier this week, we did hear a proposal to move "doctor" to the column "Highly Regulated Sectors." The response coming back from the board had placed the string "doctor" in the "Not Highly Regulated" column, so that it would be treated with three of the public interest specifications or, sorry, three of the safeguards identified by the GAC, rather than eight of them.

And so I'd just like to get a sense of reaction to that. We didn't hear much in the way of reaction to this issue earlier in the week.

So is this advice that the GAC could give in the communique to say move the string "doctor" into "highly regulated sectors"? I might have seen a bit of a nod somewhere.

Australia, please.

AUSTRALIA:

Thank you, Chair.

This is certainly something that we could support. For those who followed the extensive number of Australian early warnings, this was one which we identified as of concern. We think it's a very important area from a consumer trust and protection point of view, and we would certainly support this proposal.

CHAIR DRYDEN:

Okay. Thank you, Australia.

Okay. So can we conclude that the GAC will advise to move dot doctor into the "Highly Regulated Sectors," with some explanation, brief explanation, around that? Again, I think we're looking for short text to come to agreement quickly.

Okay. I can see the European Commission and also Iran.

European Commission.

EUROPEAN COMMISSION: Thank you, Madam Chair, and thank you, Peter, for the support.

I just wondered, we haven't distributed yet to the rest of the colleagues the wording that we would like to propose in the communique, because we have been holding coordination during the last couple of hours. But I can read now the text that we would like to propose that would (indiscernible) the situation.

So I would like to propose the following sentence:

"The GAC advises the ICANN board to re-categorize the string dot doctor as falling within category one, 'Safeguard Advice,' addressing high-level related sectors, therefore ascribing these domains as closely to legitimate medical practitioners. The GAC notes the strong implications for consumer protection and consumer trust and the need for proper medical ethical standards demanded by the medical field online --

>> Slow, slow, slow, slow.

EUROPEAN COMMISSION: -- to be fully respected.

Shall I start again?

Sorry.

>> Slowly, slowly.

CHAIR DRYDEN: I think that -- I mean, I could follow.

That sounds fine, what you've read, in the sense that I don't think it's controversial for others around the table. So if you circulate that either to the GAC list and/or to the secretariat, just so they can get it in the next version of the communique for the end of today.

Okay. All right. Thank you.

All right. So the next issue, Red Cross/Red Crescent movement.

So this is something that came up in discussion with the chair and vice chairs as a potential topic. However, we have not had discussion or there hasn't been substance to a proposal for Red Cross and Red Crescent. I think some GAC members have been

approached by Red Cross and Red Crescent with a particular request. But I have no sense from this room about whether there's a convergence or what we would provide advice on.

So this is what I would like to get a reaction to right now.

On the earlier point, Iran, did you still want to speak?

IRAN:

No, Madam Chairman. I agree with the -- what we have supported. The only thing that the text that was read by the Commission, I think we need to introduce one single word in the appropriate place, and that is "normally." Because there are doctors, we have many conferences, meetings, doctor, Dr. X, Dr. Y, and so on and so forth. But if you put normally in the text somewhere, the views (indiscernible), so I support that.

Now, I wanted to comment on the next point, which is the Red Cross and the Red Crescent.

We have discussed at the previous meeting and there was no objections expressed on that issue. So I suggest that in the absence of objections, we take this proposal, and we carry it on and accept that.

Thank you.

CHAIR DRYDEN: Thank you, Iran.

So as I understand the proposal to protect their acronyms, I don't think we have had agreement in the GAC that we would provide advice to the board on that.

But this is -- this is why I think we need to get a sense of things. And also, please correct me if my understanding is not correct about what it is that they're asking for.

Did I see the U.S. earlier for the speaking order?

Okay, U.S.

UNITED STATES OF AMERICA: Thank you, Madam Chair. But I just want to be clear. I was hoping to address the Red Cross issue. Is that what you're seeking?

CHAIR DRYDEN: Yes, we're back on the Red Cross.

UNITED STATES OF AMERICA: Grateful for Thomas Schneider, Switzerland, refreshing our memories on this. I went back to the September 11 document that he referred to. And I think there may be some misunderstanding. I know I certainly had one then and have -- would have one now. As I read that letter, there is a very explicit

list of the explicit names that we were seeking protection for. And then there was, in an annex, a list of all of the applicable national laws and the entities to which they referred protection in each national context.

So let me sort of refresh everybody's memory, I hope you don't mind.

The whole premise for the GAC's support for protection is that they are -- both of these organizations are covered by international treaty and national laws in multiple jurisdictions. So the reference, I believe, from Switzerland to the names of the entities included in the letter is not to names that we included to be reserved and protected. It was included in an annex, at least from our perspective, always as indicative of the laws that provided the basis for the GAC's advice.

So I did not read that letter in any way, shape, or form then or now to actually be advancing protection for those national names. We have never specified that. It was never on a list. So I'm a little bit hesitant to reopen that, and I think the GAC board and the community might be as well, because that's now a longer list of names.

So I just put that out there that if you go back to that original document, the list of the actual country-by-country names of these organizations is only in an annex. And I don't believe it was referred to in the explicitly protected names.

Thank you.

So I would feel ill-prepared, frankly, to endorse new language from the GAC at this point in time.

Thank you.

CHAIR DRYDEN:

Thank you, U.S.

Any other immediate reactions?

U.K., please.

UNITED KINGDOM:

Thanks.

I mean, I note what the U.S. says, and perhaps we need to allow a little bit of time. But the -- I'm also cognizant of the fundamental problem that the Red Cross and Red Crescent entities at the national level have, which is of abuse of the names of those entities. So there is an issue here, public interest issue here, which I think should be at the forefront. But perhaps we just need a little time, then, if I understand the U.S. correctly, to consider this a bit further.

But as I say, mindful of what we're trying to do, which is to help the Red Cross, who are faced in any humanitarian crisis with criminality which is passing themselves off as national entities.

And there is a catalogue of instances of this which I've seen, people passing themselves off as national Red Cross entities in order to defraud people of their money and to divert funding from those humanitarian causes into criminal pockets. So that is a critical issue here.

Thank you.

CHAIR DRYDEN: Thank you, U.K.

Is that U.S. again? Yeah.

UNITED STATES OF AMERICA: Thank you. And not to belabor these points, but the U.S. has been a strong supporter of this initiative from the beginning. And, in fact, you and I, I believe, had a very handy division of labor. You took on the International Olympic Committee, and I took the lead on the Red Cross. So we are strongly in their corner for these purposes.

It's not -- I don't know that it so much is a question of individual GAC members needing time in capital to consult with their intellectual property colleagues, because this is actually what we're talking about. My hesitation at this point is actually with the other side. It's with the ICANN board and the registries, because this becomes a contractual obligation. So you already

have several contracts that have been signed and many more being signed probably this very week. So I do think we need to be very mindful of what it is that we are actually proposing at this moment in time.

Are you asking the board to renegotiate contracts?

So I would just urge some broader thought here. It's not that the objective anybody here takes issue with. It's what does the GAC's advice -- what would it entail? What would it trigger?

So I'm very hesitant, and I would, frankly, need to consult to get proper advice as to whether there is protection under our system -- and we could agree to this -- globally for each of these names.

So apologies, this wasn't presented to us before traveling. I was therefore unable to conduct that research. I would have been able to had I been given notice. But I also think we do need to think about ICANN's side of the house, the applicant's side of the house, registry contracts.

Thank you.

CHAIR DRYDEN:

Thank you, U.S.

So I have a request from Switzerland, and then I think we're going to have to close off this discussion so we can move to the next.

Switzerland.

SWITZERLAND:

Thank you very much.

And I see the U.S. point. I just would like to react on -- There is -- in the text, there is a concrete proposal on how to practically deal with this so that there shouldn't be an issue. Because the proposal is to use the same mechanism that is currently being developed and hopefully being agreed very soon to -- on how to implement the notification mechanism of -- for the IGOs with their list, and basically do the same with the list of the Red Cross names, which is not an intellectual property issue, because I don't think that any company would like to register U.S. Red Cross or Red Cross Philippines or Red Cross Taiwan. I don't really see this as an issue. Neither for the registries that will have to implement the IGO protection anyway, because it's -- everything is provisional now. So that would not be -- that would not complicate the situation.

But I think the -- I'm looking at the text, and it is implicitly stated that this is also -- that the national structures are part of -- I mean, it's clear that they are part of the Red Cross/Red Crescent movement. And the thing is, does the GAC agree that this on the lines of what Markus said in our advice, we meant that this is the case, at the national level, the names should also be protected or not? I think this is the question what we should seek agreement.

But on practical terms, I don't see any problems in implementing this.

Thank you very much.

CHAIR DRYDEN:

Thank you, Switzerland.

Is part of the issue here that interim protections have been given to the IGO names and acronyms but not to the Red Cross and Red Crescent? Is that the issue, with some applications being moved to the point of signing contracts and actually being put in the root? Is that the issue?

Okay.

So Australia and Italy.

AUSTRALIA:

Thank you, Chair. I'm just stepping in because of an absence of an answer but as I understand it, the issue is not about acronyms. It's about the names of the national groupings. So it would be Australian Red Cross or something along those lines.

So I think Red Cross, Red Crescent, et cetera, are currently protected but not the names of the national bodies. So that's my understanding. I'm happy to be corrected.

CHAIR DRYDEN: Okay. So it sounds like the request is just for the names. Okay.

All right. I'll go to Italy. Please assist, Italy.

ITALY: Thank you, Madam Chair, but only the Red Cross issue over because this concerns another string.

Is it over, this discussion?

Okay. Italy would like to raise and underline our strong concerns concerning the dot health top-level domain. I'm sure you all know about the letter of W. Health Organization circulating lately. We think it should operate in the interest of global public health. And I would again like to underline and stress that misuse of sub health domains could pose a serious risk to patients and consumers and undermine legitimate trade.

Therefore we, as Italy, would like the GAC to advise the ICANN Board to put on hold the string dot health, including all the language variants.

And I understand and apologize this is outside the scope of this conversation, but we really would like to show our strong concerns about this.

Thanks.

CHAIR DRYDEN:

Thank you for that request, Italy.

So we're at the stage now with the standard advice that we gave of providing some clarification, possibly some advice to adjust or to advise the New gTLD Program Committee about implementation details based on the proposal that they've given us.

So we don't currently have the option of blocking dot health, but if we wanted to contemplate providing advice on how they treat dot health within the parameters set out by their proposal, then that is something that we could consider.

For example, we have agreed that we will advise to move dot doctor from the less-regulated sector to the column of highly regulated sector. So that's not an option available to us currently.

So on dot health, are there any other comments on that?

Australia.

AUSTRALIA:

Thank you, Chair. And for those colleagues who have been to the last few meetings, I've commented on this before, and the concern I have with dot health is that the safeguards that would apply would effectively require some sort credentialing or production of documents to say that you were allowed entry into

that TLD. And with dot health it's just not clear to us how that would operate.

There is certainly a regulated part of the health sector, and we've talked about doctor and dentist and so on, which we're very supportive of and have, in fact, pushed.

With dot health itself, it just seems to us that this is very broad. There's lifestyle coaches, yoga people, diet advice and so on. Part of that is going to be rightly regulated in some of our countries, including Australia, and other parts aren't. And what we would be doing is imposing something which I think would be -- I just don't know how it could be implemented. Either that or it would change the nature of the TLD entirely and in a way that I don't think is actually normally associated with that word.

That's my concern with the health one.

CHAIR DRYDEN:

Okay. All right.

So thank you for that.

So let's come back. Just to confirm on dot doctor, we were going to add the word "normally" into the text that the European Commission read and has perhaps now circulated.

And then on Red Cross and Red Crescent, we're down to the point of considering GAC advice to protect the names in the same

manner as the mechanism that's been put forward for -- or is under discussion regarding the IGO names.

And so I want clarity on whether we can proceed and provide that advice. Admittedly, it is challenging for colleagues because that proposal did not come to us until very late, but I have heard concerns around the timing, but I don't have absolute clarity on whether we can provide advice, provided it is limited to the names and affording the same protection -- or approach is a better word, that we will ultimately arrive at one way or another regarding the IGOs.

U.K., can you help here, please.

UNITED KINGDOM:

Thanks. Well, I only suggest, as I was kind of intimating earlier, that we say we are considering this, but we impose for ourselves a short deadline to allow for consultation, which I think the U.S. indicated that they would like to do, on the sort of wider impact of possible advice on this area.

So perhaps we might note in the communique that we are considering this, and then we'll take a decision shortly -- or provide advice shortly, I should say. That's my suggestion.

CHAIR DRYDEN:

Okay. I like the suggestion. It seems okay. All right.

So we'll take a bit more time, a short amount of time; identify that in the communique as something where we will come back to them. And then for colleagues that are interested in this issue, please don't disappear at the end of meetings, and be ready to provide comments on that.

Okay. All right.

So there. We've addressed that.

The next issue that I have is with the title "security-related applications." This is one that was raised by the European Commission. So I don't know whether the European Commission wants to take us through the issue, or other colleagues. Just to go over --

EUROPEAN COMMISSION: Sorry, Madam Chair. I was discussing some internal issue. Could you please repeat?

CHAIR DRYDEN: The issue of security-related applications. Would you just take us through what is the issue so that we can get a sense of what the issue is and a reaction to that from colleagues.

Thank you.

EUROPEAN COMMISSION: We expressed here today that in the interest of fostering solutions that enhance global Internet security, innovation, and consumer trust, we would like that the ICANN Board avoided that purely commercial interest would prevail in the delegation of the security-related domain names; like, for instance, say secure and security but not limit it to just those. And we would also like to request that these gTLDs are operated in an open manner and not in connection with proprietary business interest.

Therefore, we would like to advise the ICANN Board to solve the contention on these applications based on an assessment of their commitment on security issues and not as part of an auction process.

Thank you.

CHAIR DRYDEN: Thank you very much for that, European Commission.

So are there questions for the Commission? Clarifications?

This sounds like new advice as far as these strings are concerned, but I admit, I'm not the expert in this.

Australia, please.

AUSTRALIA:

Thank you, Chair. I'm just looking at the text that the European Commission circulated around yesterday, I think. So I think there's two parts to this, if I'm correct. So the first one is to do with open and closed, and from the list of strings which are in the text, save secure and security, my understanding from discussion with the Board and the NGPC is that they won't be closed.

So as I understand it, all new gTLD contracts will now include, in the PIC specification, a requirement that they not be closed. And if the application applicant doesn't want to sign up to that, they have to do a change request. Or if they're on the GAC's list, they will have had to inform the ICANN Board that they want to have a closed registry, and then they're going to go into a, I think, an as yet determined process to determine if that being closed would be in the public interest.

So I think that issue is actually solved, if I'm right.

On the other issue, not resolving a contention set using the auction mechanism I think raises a lot of complicated issues because that mechanism has been there for some time. And I know that GAC has obviously expressed some concern about it, but we, nor the community, have never developed an alternative. And it's essentially the mechanism that's there and going to be in play.

I think if we were going to do something here, it's a lot of work, pretty late in the process. And I really don't know what more to say. I think it raises a lot of big issues, essentially.

CHAIR DRYDEN: European Commission, please.

EUROPEAN COMMISSION: Thank you, Chair. Thank you, Peter, for your comments.

Could we take -- I see your comments, and thank you also for the information that this part of the issue could be sorted out already.

Couldn't we ask the ICANN Board to provide us information with the consequences or possible consequences of the auctions as regards the protection of public-policy interest, some sort of assessment or ex ante assessment so that we don't see the consequences of sorting out contentions through auctions in the future?

And I am of the opinion that -- well, I have heard among my colleagues that in future rounds, the auction process in the Applicant Guidebook could be reevaluated on the basis of the results drawn after this first round. But couldn't we ask for an assessment ex ante of the possible consequences that this may entail for the protection of public-policy interest?

CHAIR DRYDEN:

Well, my initial reaction is that if we get the drafting right, yes. That if we say that assessing the situation is going to help us in the future to contend with this issue, I think it would map very well to the kinds of issues we've been struggling with a bit and identified recently with the gTLD program.

You're nodding, Australia. Help me out. You're the chair of the future gTLD Issues Working Group.

AUSTRALIA:

Thank you, Chair. I was going to agree. I actually think asking that question could be quite useful. It's ,in some way, linked, and I'm looking across at Mark -- at U.K. and Switzerland who are helping out on the new gTLD working group on the community application issue, which I think is linked to this. What we're hearing on the community front is that if you are accepted by ICANN as a community, you have some preference and you can avoid the auction process. But for some communities, they've actually found it extremely difficult or confusing to answer all the questions to be considered as a community.

So we have many -- what we might many logically -- many might logically think of as a community facing auctions. So we actually have a very similar type of scenario.

So I think if we were to write to the Board and ask for a public-policy analysis of the benefits and pros and cons of auctions, it

would be very, very useful input for our new gTLD working group. Not only on this particular issue, but it will help us out with the community issue as well, potentially.

So I think it's potentially a very useful approach, and I would encourage European Commission to participate in our little working group and bring some new perspectives. The more the better.

Thank you.

CHAIR DRYDEN: Okay. Short. To agree, I hope.

EUROPEAN COMMISSION: Yes, of course, to agree. I would just like to make reference to a letter that ALAC circulated on 9th of August talking about the preferential treatment for community applications in string contention. And I think that perhaps we could include that mention also in our draft text.

Thank you very much.

CHAIR DRYDEN: Thank you, European Commission.

So I see clear agreement to request the assessment and to link this to the future and the benefits of identifying what the

implications are for the future. If we're going to be taking additional text from another statement that's going to take us more time, that's another step. Colleagues will ask to analyze that.

So unless you can very quickly assure me during the break that it's a very short text and nothing controversial or nothing that could conflict with earlier advice or be confusing with -- you see how we could potentially get stuck on that point, then that's how I think we can manage that.

So we have agreement on the first point, and then perhaps in the break we could talk very quickly about what is this addition that you would want to propose. And if it's very straightforward, then let's do that.

Okay. I think we can move on.

So we have what might be a related point. Auctions and some proposed advice on that.

Again, European Commission, can I look to you to take us through this issue?

EUROPEAN COMMISSION: Yesterday -- Thank you, Madam Chair.

Yesterday, in the EU group, we drafted a small text we've distributed. And in that we reflect that we're concerned of the

implications that auctions in the gTLD program may have for the protection of public-policy interest, as I already placed before, since auctions could ultimately benefit big businesses rather than smaller and also very innovative entrepreneurs. For the sake of diversity, it would be perhaps desirable to give applicants a more even playing field with -- that they can come up against larger portfolio holders in the contention process.

It could be argued that ICANN auctions process where applicants bid and the winner pays ICANN have not proven convincing to many so far. And in this regard, the auction process could be revisited perhaps in light of a specific case of these smaller applicants.

Like I said before, I made reference also in this small text we circulated yesterday to the ALAC, letter that we'll discuss later. And I would like to add that we are also of the opinion that applications with the most (indiscernible) support and appropriate safeguards and strong emphasis on community service should be given preferential treatment in the new gTLD string contention resolution process.

Thank you.

CHAIR DRYDEN:

Thank you. Okay.

So on the topic of auctions, are there some reactions to this proposal?

I don't know that we've had a lot of discussion on the topic of auctions, although there have been concerns identified.

Okay. So I have U.S. and Switzerland on this.

UNITED STATES OF AMERICA: Thank you, Madam Chair. And thank you to our Commission colleagues for sharing some proposed text.

I have to say I'm not entirely clear as to understanding what we're being asked to agree to, and so I think we need to take some time for that.

There are a variety of different questions we might want to pose with regard to auctions, not just the ones that ALAC has raised.

So I'm always hesitant at the last minute to be presented with a particular angle when I haven't had an opportunity to think through the entire picture.

I would also note that there are some other elements to auctions that we may not be able to consider offering advice on, and that is the fact that there are private auctions under way, which is sort of the marketplace at work.

So I'm a little bit concerned as to where we are going and what we might be motivated by. And I have to express some regret that we -- perhaps colleagues didn't take the time during our discussion of new gTLDs to surface these issues and with text so that we could have the opportunity to circulate it at home.

There are a number of agencies that have been working with us, NTIA, very closely for well over two years now, and we do try to consult before coming to an ICANN meeting.

So I have to express huge hesitation until I can look at text. I'm not entirely sure I can agree to any of the new text that is simply appearing now. And if I could suggest -- and perhaps when we circle back in an intersessional, when we return to our working methods document, we might want to consider sort of putting down some guidelines for when we would want to share text with each other as colleagues if we are actually seeking decisions at a GAC meeting.

If it is something for discussion and colleagues would just say, "You might be interested in this. I draw this to your attention," I think that's very, very helpful, normally. We all really benefit from that. But I think to be presented in the afternoon of the final day of a GAC meeting when we are drafting communique text, that is not so simple.

So I'd like to put out there that new gTLD issues are a matter of very great concern to all of us, but I think we all would like to be thoughtful.

So I would just have to express some huge reservation about accepting text which is now coming to us just now this afternoon.

Thank you.

CHAIR DRYDEN:

Thank you very much, United States.

Okay.

We're already taking more time than I have allotted for this exercise. I just want to move us on. I don't think we are going to conclude something on auctions, and there are two more issues on this list to quickly go over.

I really want us to move. We were doing okay, and I don't want us to lose our -- our speed and effectiveness so far.

Okay. Please be brief, Switzerland.

SWITZERLAND:

Thank you. Briefly to say that I see the U.S.'s point. I just wanted to say this has been raised in the meeting with the Board.

The way we understand it, it's actually a refinement of what we have already had in the last GAC advice about demonstrable community support and reflection of this by the board. I stop here. Thank you very much.

CHAIR DRYDEN:

Thank you, Switzerland.

And thank you for pointing out that we had touched upon this earlier. But I don't think that getting the topic into an exchange with the board should really be used as a reason now to compel GAC members to agree to something. I do not want us to start that practice. I don't think it's fair, and it does not provide opportunity to other GAC members. And it also can potentially fuel misunderstanding with the board about what the views of the GAC as a whole in fact are. So, please, let's not adopt this as a practice in the GAC.

Australia is telling me he might have a solution.

Please.

AUSTRALIA:

I will try.

I think we actually may be closer to -- well, there's the potential of being close to agreement here in that I think we've already agreed to ask question of the board about a public policy analysis of the

pros and cons of auctions. And I think what we are potentially looking at with the community issue, the security-related strings issue, and the particular auctions issue is actually pretty linked together.

I was thinking that one way, a simple way, relatively simple way, to get it into the communique, if everyone else agrees, is as a slight addendum to the new gTLD working group text where we inform the board that we're looking forward to the second round and a range of public policy issues associated with new gTLDs, including geographic names, community names, et cetera.

We say, it would be useful as an input for that work if the board could provide a broad public policy analysis of auctions, including in relation to communities, security-related strings, and other sensitive strings, or something along those lines, which puts the board on notice that we're interested. It puts it in the context of our working group. And it's future-focused for the second round.

CHAIR DRYDEN:

Okay. Well, that sounds like a good way forward to me, and a noncontroversial way forward.

Fine. Let's move to the next topic, then.

Issues about due process and rule of law and procedures regarding string confusion, community, and legal rights objections.

This does appear to be another topic that we have not discussed at all in the GAC, the recourse or appeal mechanisms for -- for these strings, so I'm doubtful that we will come to agreement on this.

Can we move to the next issue up.

Yes, I see some nodding. Thank you.

On openness, this seems to be relating to the closed versus open issue. And I see category 2 referenced. So let's spend some time on this.

And we will take us through this section for us to discuss?

No volunteers? You know what will happen if there are no volunteers.

Australia, please.

AUSTRALIA:

Again, I stand ready to be corrected by colleagues, but I think the answer -- I entirely understand the point here. So I want to say that first. I'm very supportive, the Australian government was one of the governments that was very concerned about the openness issue.

I think what we learned yesterday in the meeting with the board when we asked this question was that this issue has already been

solved, as far as I can tell. I think the confusion, potentially, arose because we weren't sure exactly who the board had written out to and who the PIC specification applied to.

We may -- we probably still -- may want to double-check. But what we were told yesterday was that the board wrote out to all the applicants who were on the GAC list. And I think that was a potential source of confusion. It was for me. I thought that meant that they hadn't done anything with -- in relation to any of the other strings. And the GAC had said that it was a nonexhaustive list, so potentially some strings had been missed.

What the board said yesterday was that they wrote out to those strings on the GAC list just to be sure and to give them a heads-up because they had already been identified.

But what's happened in practice is that the PIC says that you must operate it in an open manner, applies to every new gTLD. And for those who weren't on the GAC's list but may have been missed and think that they're going to run it in a closed way or initially indicated that they're going to run it in a closed way, they now have to come back to the board or to ICANN and ask for that to be changed through a change request.

So if I'm correct -- and colleagues correct me if I have misunderstood the board -- I think we've got openness across the board on -- and enclosed on an exceptional basis. Either the people who are on our list wrote back saying, no, no, we want to

be closed. Or they've got to come back through a change notification.

So I agree with the issue. I think it's important to raise. But I think we just learned yesterday afternoon that perhaps it's okay.

CHAIR DRYDEN: Thank you, Australia.

Netherlands, please.

NETHERLANDS: Yes, thank you.

I got also the impression that they -- Let's put it forward another way. I think, Peter, you had a good recollection. The only thing which was not clear was, is specification 11, which gives this, let's say, openness requirement. Is this now imposed on not only the ones who have PICs sent out, but also on all the others which have not been, let's say, having PICs submitted with the application?

And that's not clear to me.

If you can confirm this is true, then we need no language. Otherwise, we need language.

Thank you.

CHAIR DRYDEN: Australia.

AUSTRALIA: I think you've, from my point of view, highlighted the exact issue, which is that we're not clear. As I said, until yesterday's meeting with the board, I didn't understand how it worked. I think I do now. But it's probably worth asking the board the question how exactly the openness requirement is being applied across the board, so that they can come back, give us a written brief saying -- if I'm correct -- it applies to the ones that are on your list, it applies to the other ones this way, here are the way the exceptions play out.

So perhaps we could just ask the board to confirm. I would entirely support that.

CHAIR DRYDEN: Netherlands.

NETHERLANDS: Yeah, well, asking the board, I think we already asked the board, but we didn't get, let's say, -- so there remains the concern of the GAC.

So it should be, then, noted in the communique, maybe somewhere different, that the GAC is still concerned that -- instead of another language.

CHAIR DRYDEN:

So the GAC is still concerned in relation to that point? That is what we would put in the communique? Expressing that the GAC has concerns in terms of the point as articulated by Australia. Would that be a good basis for -- for communique text?

I don't know what this means.

>>

Shall we prewrite it -- write the text and then afterwards put it in?

CHAIR DRYDEN:

Okay.

The -- the secretariat support staff are now drafting. So I'm wanting to take this out of your hands to have the pen. So I'm getting clarity in this discussion, because they're listening, and they're going to take on, based on the -- the way forward that identifies -- Switzerland, you're going to help?

SWITZERLAND:

No, I actually have a question, because -- I -- I don't want to complicate things, but I would agree with Australia.

My problem is that even -- was, among others, it was me who asked the question, because my point was, we asked for generic terms that should be open. And the board was then saying, well, they're screening all -- everything that was open. And my question -- but there was not time to answer that -- are they screening all open -- closed applications or all applications that are closed that the board thinks are generic terms? Because that was the problem I had. And there was no time to get an answer.

So maybe, yeah, let's wait for the text proposal by the support secretariat. But this, for me, is the question, are they screening all closed applications or are they screening all -- automatically only all closed applications where the board thinks these are generic terms? Because that would then raise the problem of the list.

Thank you.

CHAIR DRYDEN:

Okay.

Iran, please.

IRAN:

Thank you, Chairman.

Perhaps you could formulate in a different way, if you have already asked and the reply was not satisfactory or was vague or was general, perhaps you would clearly mention that the GAC

recalled that the board has not provided specific answer or response to the question raised or to the concern raised earlier in communique, so on, so forth. So we tell them as such, we request specific reply, specific response to that, but not very general.

Perhaps sometimes people believe that's better not to give a good reply, go to general and make it vague, but they want to clear .

Thank you.

CHAIR DRYDEN:

Okay. Thank you, Iran.

I'm getting some nodding from behind. So I think we can take a run at drafting text and then put it in front of people. And then that gives us a bit of a chance as well to think -- you know, we'll have a coffee break and talk a little bit to each other.

So as well, the exact language from the agreement is going to be circulated via the GAC list so you can see what -- what language they were working from in terms of contract terms. And maybe that will also help us to an extent in asking the question we want to ask or identifying the concerns that we want to identify on this point.

So I do want to then move us on. So we're going to pause now. There should be hard copies coming very shortly for the first draft. It's not going to include in -- this hard copy is not going to include

what we just covered. That is fine. Those items are going to appear when we do another run at it at the end of today. Okay?

So let me just take a few minutes and work out where our hard copies are. And then we will start up again quite quickly.

So please don't go too far.

All right. Thank you.

[BREAK]