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HYDERABAD – ICANN Bylaws changes and role of the GAC  
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CHAIR SCHNEIDER: With this we have to now go back to -- forward and back -- back to the future to the next session on implementation of the bylaw changes and the role of the GAC.

Let me give the floor to Tom. We have been working on some elements and trying to capture the discussion that we had -- the very constructive discussion that we had -- it's difficult to keep the days. It was Friday. Friday, in particular afternoon. And so let me give the floor to Tom. He's going to present to you and -- and I will send out at the same time the document that he's reading out to the GAC list.

This is just an attempt to capture the elements that we have received or understood as more or less options or tendencies to help us advance. It's not a document that is a negotiating document. It's just a supporting document. So don't take this as a negotiating document. It's just a working document to help us move forward. So, Tom, please. Go ahead while I send the document.

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TOM DALE:

Thank you, Thomas. Just to clarify, firstly, on a procedural point, I've been working -- and I think the leadership group is working on the understanding that in preparing material on what the GAC will do to implement the new bylaws where they're relevant, this is not something that is material for the communique. It is an internal GAC working process. So the matter is not to be settled by the communique drafting, as I understand it at the moment. If I'm wrong, I'm sure somebody will correct me.

The -- to recap firstly, where I understand that the GAC arrived at in the initial set of discussions on last Friday, in answer to the questions that were suggested, the first one was should the -- in relation to GAC advice to the Board, should the GAC maintain procedures offered in Helsinki for preparing advice in the communique including the zero draft providing a rationale and making extra efforts to be clear and so on, I think it was clear from the discussion that the GAC wishes to maintain those procedures and continue to improve them on a continuing basis where possible. So I think that was reasonably non-contentious.

The second question on GAC advice to the Board concerned how could the GAC deal with the issue of a small number of objections preventing GAC advice from being GAC consensus advice. So there was the question of how to define not a formal objection. My understanding was that the GAC expressed a wish

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for the secretariat to prepare a discussion paper on that issue for consideration between now and the Copenhagen meeting that would include research and analysis on procedures and another international organizations concerning what is a formal objection. So the matter would be looked at further, and input would be sought from you about that.

The second set of issues concerned appointments to external bodies. The sense that we got of the GAC's discussions on Friday was that, again, the secretariat has been asked to prepare a discussion paper on the issue of appointments to external bodies, again, for discussion and, hopefully, finalization between this meeting and the one in Copenhagen that would include a table of current and possible appointments, research and analysis on how selection criteria could possibly be developed and applied, and on whether the agreed draft guidelines for GAC participation in CCWGs could be extended to other appointments. That's my understanding of where the GAC concluded its discussions on that on Friday.

As far as procedures are concerned, the document that Thomas had referenced that we have prepared suggested, if there are nominations or appointments required before the Copenhagen meeting, they'll simply be handled in accordance of simple GAC practice. I don't know if there are going to be any of those at all.

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Thank you. I'll pause there while Thomas is talking. I think Iran wishes to speak, Thomas.

CHAIR SCHNEIDER: Yeah, thank you. The thing is that somehow my Internet connection does not work. It tells me it works, but it doesn't. So I cannot send the email. So I was trying to ask Olof, if you want to, so people can have this document.

I'm disconnected, so there's nothing I can do. Iran.

IRAN: Yes. Thank you, Tom. You just forgot something. That GAC agreed that, as far as the representation of the GAC in the EC, the mission of the chairman of the GAC has been extended for the next six months. You will come back at that later, whether you bring it back later or not. But that is something we have discussed.

And also we have discussed the issue of petition and so on and so on. I hope you will bring it back. Because the situation was misunderstood, but was all but 99% of the people. Thank you.

TOM DALE: Thank you, Kavouss. In relation to your comment about the GAC chair in the empowered community administration, I was going

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to come to that. We've included it for this purpose under the heading of the GAC and the empowered community rather than GAC appointments.

But, yes, you're quite right that that was a very clear decision and that has been recorded.

It might be best if I actually did move to distribute this document now, as Thomas has requested. My apologies that it hasn't been -- that that didn't happen before. But there was some delays and some clearance processes that we were trying to go through. So just bear with me.

There. I'm sorry. Olof has sent it. Thank you very much.

Returning to the summary of it, in relation to GAC -- and this is the third set of issues. In relation to GAC and the empowered community, the first question was who should represent the GAC in the empowered community administration. And, as Iran has correctly pointed out, the GAC agreed that the GAC chair will continue to represent the GAC in the empowered community administration until the end of ICANN 59, which is the meeting in Johannesburg in June 2017.

Secondly, concerning the procedures for the GAC to adopt and meet the requirements of -- in particular of bylaw 6.1g, what

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we've done in the document is reproduce the text of the bylaw precisely and suggest a way forward.

So I'll quickly go through that. The bylaw says that each decisional participant shall, except as otherwise provided -- but this is not inconsistent with that -- shall adopt procedures of exercising the rights of such decisional participant pursuant to the procedures set forth including -- and these are not exclusive, but these are the ones that are listed in the bylaw -- one, who can submit a petition for such decisional participant. I'll repeat. The procedure that they're asking is who can submit a decision to such decisional participant. This is the wording of the bylaw, not a summary of it.

We're suggesting in the document that Olof has just circulated that any GAC member or observer can submit a petition to the GAC. That's suggestion 1. So yes, Iran.

IRAN:

No. More than that. Any individual -- read the bylaw. Any individual is not necessarily GAC member or observer. Anyone, users, if they opt to come to GAC, who can bring. It is up to us to say that no, this is not relevant to our work. But this is multistakeholder open community. It's not limited to the government and observer. Read, kindly, the bylaw says any individual. I have shown it to many people. And, if you like, I can

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take it and take 160 something. And we have to follow that word "any" means that everybody, someone that is not member of the GAC, not observer, but has a party which believes that he has harm with respect to any of those two category of issues. One category is approval issues. The other category is rejectional issues. These two. Any individual. Please kindly be sure. But not member and include member and observer. But any other than that one also. We have discussed at CCWG not to exclude anyone. We want to have inclusive society, but not only member of the ccNSO or GNSO. Anyone could raise any questions. But it is up to them to agree or not to agree to proceed. And then please clarify for a petition does not need any support. Petition from individual. Once the petition discussed at the SO and AC, you know that one step further did support of another SO and AC. Make it quite clear. Thank you.

CHAIR SCHNEIDER:

Thank you, Kavouss. Let me just read out what I see in this. If you have 6.1g. It says, "Each decisional participant shall accept as otherwise provided in annex D adopt procedures for exercising the rights of such decisional participant pursuant to the procedures set forth in annex D including who can submit a petition to such decisional participant."

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In the end, whatever is written in annex D who can submit it, it is up to us to define the rules which submissions we accept or what conditions we accept.

So, if we say anybody can submit a petition to the GAC, we will discuss whatever is supported by at least one member or observer. This is what we can do.

So I don't -- I don't see -- I mean, we can discuss this. But, in the end, we are free to define our way of what we discuss. We're not obliged to discuss anything that is sent to us. We are not obliged to do that, just to make that clear.

Iran and Switzerland.

IRAN:

Thank you, Thomas. I spent two years on this issue. Please read section 2.2, petition process. And petition process, if we go to item B is mentioned any individual may submit. So you're mixing two issues together. Please read section 2.2. Any individual. Yes, it's up to us to agree or not agree. Not saying it is not. It is outside our activity. Somebody talking about something which is a ALAC. Not our position. But it is free to submit a petition to anybody. So, please, kindly go to the procedure. Section 2.2, petition procedures. But not mixing of



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the other things. It is very dangerous if you try to have another interpretation and have another bylaw. Thank you.

CHAIR SCHNEIDER: Thank you. Switzerland.

SWITZERLAND: Thank you, Chair. I was trying to find the section mentioned by Iran in the bylaws. And I couldn't find it. But perhaps he could share it with us through email. And, however --

CHAIR SCHNEIDER: It is annex D of the bylaws, right?

IRAN: Section 2.2, annex D, paragraph letter B.

CHAIR SCHNEIDER: I don't have Internet connection, so I can't verify it. But maybe you are not cut off the world like I am. But, again, if anybody can submit a petition, that doesn't mean that we have to discuss everything. We can still decide what we discuss. There's a difference there. But --

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I think we may leave this aside for the moment and clarify this until the next, because I don't think it's the most fundamental issue.

Switzerland.

SWITZERLAND:

I think -- Well, as a lawyer, you know, we have this annex, and it's true what our distinguished colleague from Iran says. But it also says that this is subject to the procedures and requirements developed by the applicable decisional participant.

And if we go back to 6.1g in the, let's say, in the main body of the bylaws, we have this first para that was quoted by the briefing paper, and which was being quoted by Tom which allows us, as a decisional participant, to decide who can submit that. So we are free. We can decide anybody can bring this up and we would have to take a decision on that, which I think could be something a bit inefficient, or we may find any GAC member or GAC observer may bring up the petition for decision. And perhaps that GAC member or observer is just sponsoring something that has been brought to it, to -- to this GAC member observer by a private party or by some other organization that has not the character of GAC member observer. Just to clarify that.

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Thank you, Switzerland. Have you -- Those who are connected to the Internet, have you received the paper sent out by Olof?

Okay. So I don't know whether instead of having our faces on the screen, whether we could have the document on the screen. I think that's more useful. If it's feasible; in particular, because there's a delay, so whatever I say, I can hear me -- or see me saying it a few seconds later.

Can -- Could we have that document that Olof has sent on the screen? So maybe it makes it easier to use this as a tool for working.

You're doing it. So thank you. That's very kind.

So let's continue with taking the floor.

And, please, let's leave this issue aside. I think if somebody still has the understanding that we are not free, then let's take this separately and spend -- and do not spend time here in the plenary until this is clarified.

Okay.

Any views on the -- what Tom has read out, presented?

Or maybe we just want to restart, but now with the document visible to everybody. That may help people to catch up.

So, Tom. Sorry for asking you to go through it again quickly.

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Thank you.

TOM DALE:

Not at all, Thomas. I'm amount the disposal of the GAC.

Just to go back very quickly to where I was summarizing the document before.

The first set of questions deals with GAC advice to the Board. So what is proposed and what you're seeing on the screen in front of you, is that the GAC will maintain the procedures adopted at the Helsinki meeting for preparation of the communique and work to opinion with usually improve them. That's all.

And on the second point about formal objections and what to do with them and how to define them and how it treat them, the attempt to capture the GAC discussion is that the secretariat will prepare a paper on that issue for consideration at the next meeting, and that this will include research and analysis on procedures in other international organizations.

CHAIR SCHNEIDER:

Iran.

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IRAN: Tom, you don't need another national organization. Go to the GAC principle of 2000. You have a footnote and quoted what is in the U.N. No; 2000, you have that one. It is there.

CHAIR SCHNEIDER: The idea is to look at various ways of dealing with objections, not just the U.N. The U.N. will be definitely one of the things that will be looked at. But there are other ways, other living ways to deal with objections and what we gather is that we should look at a few and present maybe a few options for discussion. So the U.N. will be one but will not be the only model that we'll look into.

Further comments on this? Otherwise we'll move to the next item. And again, this is not a negotiated text that we agreed to. This is just to capture how we move forward and what the next steps are.

And this is not intended, any of this, for the bylaws either because that's an internal procedures and working methods issue.

European Commission? It's better that you talk through the mic.

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EUROPEAN COMMISSION: No. You said the bylaws, but it's for the operating principles, not the bylaws.

CHAIR SCHNEIDER: Ah. Yep. Whatever. It will be corrected, you say. Thank you.

All right. Tom, please, move ahead.

TOM DALE: Thank you. And if we can scroll down, please, to the next heading which is "GAC appointments to external bodies." And to put that to the top of the screen. Thank you.

The first question is what procedures does the GAC need to adopt for appointments to external bodies? And if there is no consensus, should it be resolved through simple majority voting? And secondly, what criteria should the GAC apply for appointments? For example, diversity, experience, and expertise.

The suggestion there, the attempt to capture discussions to date is that the secretariat will prepare a discussion paper on this issue for the consideration of the Copenhagen meeting. This will include a table of current and possible appointments and research and analysis on how selection criteria could be developed and applied and on whether the agreed draft

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guidelines for GAC participation in CCWGs could be extended to other appointments.

Secondly, the suggestion to deal with the situation in the meantime is that if there are nominations or appointments required before the Copenhagen meeting, they will be handled in accordance with the current GAC practice. End of statement.

CHAIR SCHNEIDER: Thank you.

Comments and views?

Paraguay.

PARAGUAY: Thank you, Mr. Chair. Regarding the first bullet, I mean a), the procedures we should adopt for appointments to external bodies, I think we should avoid, you know, by all means, voting. We should try to reach consensus however we can.

Thank you.

CHAIR SCHNEIDER: Thank you. That's noted. European Commission and Iran.

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EUROPEAN COMMISSION: Yes, thank you very much. I just wanted to echo the view of Paraguay. Rather than simple majority, I think for appointments it's better to have consensus as well.

CHAIR SCHNEIDER: Thank you.  
  
Iran and then Switzerland.

IRAN: Yes. I think consensus is primarily, but sometimes you need to have other. So it is not excluded. Yes, objective would be consensus. But something to be added to that, Tom. That is availability and commitment of that. It's not just assign something. We go to (indiscernible) another group and that person either does not participate or participate in a total passive situations.

So we should add that one. Some commitment and availability and devotion.

Thank you.

CHAIR SCHNEIDER: Thank you.



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I understand the idea when you say you'd like to have no voting but consensus, but just think about a case where we are entitled to avoid -- appoint five people into a body or something. And then we have six candidates. And none of them is willing to give up. So one of them will object to whatever choice you make; that would then mean that you would not have consensus and not send anyone.

I'm just telling you to think it through, and we don't have to do this now in detail. We can say that we have -- that consensus is an important thing. But think it through, and maybe that -- I'm not 100% convinced that that is the final solution.

Switzerland.

SWITZERLAND:

Thank you, Chair. I just want to support what Iran said, and also share the thought that if our chair and our vice chair (indiscernible), I think the greatest legitimacy, so to say, to represent the GAC maybe elected by a simple majority, it would be strange not to apply this as a default method for these appointments. Although it's surely better to strive for consensus as a first step.

Thank you.

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CHAIR SCHNEIDER: Thank you. Paraguay.

PARAGUAY: Thank you, Mr. Chair. But in that case, I guess, if we prepare a clear set of parameters, you know it wouldn't be that much of a problem to reach consensus provided we have those parameters clearly established.

Thank you.

CHAIR SCHNEIDER: Thank you.

We have to, again -- what we -- what we discussed is that we will gather some criteria or some elements or some principles, and then look into what we now know are the organs where we have an interim or we will have to nominate people, and then propose a way of applying these criteria or principles according to the functions that the people have, like we discussed.

But again, for instance, if you have -- if you are to nominate one person for one thing and you have three candidates, and everybody, all of the three candidates say, "I want to do this," so you need to have a way to agree on one in the GAC.

But I don't think it's -- If you look at it concrete, I think things will get easier and clearer. So I think the important point is that

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we would like to agree in consensus. And that is an important element. It may not be compulsory in every case, but that the at settlement to reach consensus on nominations is something that I think we will definitely retain.

Were there more comments on this point? If not, we move to the next one.

TOM DALE:

Thank you. So if we can just scroll down to the next heading, which is GAC in the empowered community.

Thank you.

The question was who should represent the GAC in the empowered community administration, which is the group of all decisional participants. The GAC chair or another representative.

And as we just discussed earlier, the GAC has agreed that the GAC chair will continue to represent the GAC in the empowered community administration until the end of ICANN 59, which is the meeting in June 2017.

The second set of issues concerning GAC and the empowered community at the moment relates to the -- the provisions in bylaw 6.1g, which we quote in there, and the first one we had

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and where there was some discussion was the requirement for each decisional participant, and that's the GAC, shall, except as otherwise provided in the bylaws, adopt procedures for exercising rights, including, one, who can submit a position to such decisional participant. And the suggested answer to that part of the bylaws, as you'll recall, was that any GAC member or observer can submit a petition to the GAC. I think where that discussion was left, Thomas, was that there was going to be some further -- further -- potentially some further analysis, but I'm not quite sure.

Did you want to keep going on that point about petition?

CHAIR SCHNEIDER:

You mean about the discussion that we had? I think we will look into this annex D and the bylaws side more in detail. But we took your views from Friday that some kind of filter, that whatever comes in will need to be supported by at least one GAC member or observer was something that was considered reasonable.

I know, Iran, that you think this is so -- Yes, Iran, you have the floor.

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IRAN: Chairman, I don't want to invent something. Yes, our internal procedures could say that petition may come from government and observers, replacing any individual. That may be possible, because of our.

internal procedures. But never ever bylaws said that that petition coming from one observer or from one government should have support of another observer or another government to become a petition inside GAC. That is wrong, Chairman, w-r-o-n-g, wrong.

CHAIR SCHNEIDER: Thank you.

IRAN: Is not matter of being a lawyer or unlaywer. It is not in the bylaw. You don't need that petition. Petition is between two SO and ACs, but not inside an SO/AC.

Thank you.

CHAIR SCHNEIDER: Thank you. We note that this is your view. Thank you.

Other questions or comments?

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TOM DALE: I'll proceed. As Thomas is still grappling with his Internet connection here, I'll proceed with the next part.

The bylaw says that the procedure which the decisional participant shall develop is the process for an individual to submit a petition to such decisional participant, including whether a petition must be accompanied by a rationale. That's a quote from the bylaws.

The suggestion there is that -- in response to that provision in the bylaws, is that a petition should be submitted to the GAC email list and should include a rationale.

CHAIR SCHNEIDER: Thank you. Views? Comments?

Iran.

IRAN: Chair, may I request you kindly, do not put your finger on a particular delegate, saying, it is your views. You cannot have another views than the bylaw.

You should consult those who have written the bylaw. So it is not my view. It is bylaw saying that. Any petition coming from member, whether observer or government, does not require

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confirmation by another government observers. It is some new invention here. So we should avoid that totally.

So, please, kindly, kindly do not repeat that it is your views.

If you have doubt, consult those (indiscernible) this.

And with respect to the -- what Tom read about the representation in the empowered community up to six months, we need to add something. However, GAC need to have a definitive approach in order that the GAC be represented in the empowered community. We should not always continue on temporary and temporary. So we should put something here that it is for six months, that in any way we need a more permanent provision. So it is not my view, chairman. It is reality.

Thank you.

CHAIR SCHNEIDER:

Distinguished delegate of Iran, as you know, realities is something that we see through our eyes and hear through our ears. And there may be different perceptions of what some people think is reality. We have the same words, but we do seem to have different interpretations. Whether we call these interpretations views or anything else does not make a big difference, in my point of view.

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What I propose is that we seek legal advice or the advice from ICANN legal or whoever is responsible in ICANN for giving an interpretation on -- from their side what they think is feasible or is not feasible as a decisional participant, and then we come back to you with the answer from ICANN legal, which then we can again interpret the way we want it to with our own minds and brains.

Thank you.

Other comments, please?

Viet Nam.

VIET NAM:

Thank you, Mr. Chair.

Actually, just my comments, actually, from now on, we have this discussion about procedures, so why don't we on this way, we have a written TOR, terms of reference, so that we can agree on that end (indiscernible) everything. Thank you.

CHAIR SCHNEIDER:

So your question is that we should elaborate the written -- written TOR? This is exactly what we are trying to do. We are trying to get to a common understanding of how -- what the



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procedures should be that we will use. These do not yet exist. So we are trying to -- striving to create them.

But, of course, this is a sensitive issue, and we have different views on some aspects of it. So this is what we are trying to achieve in these discussions. So I think we are fully on -- doing what you ask us to do.

Thank you very much.

Other additional views on this particular element?

If not, then I suggest that we move on. I see people nodding. Thank you.

TOM DALE:

Thank you, Thomas.

Just scrolling down a little bit, if we could, please.

The next question was how the decisional -- sorry, the next question. The next procedure provided for in bylaw 6.1G is how the decisional participant determines whether to accept or reject a petition. That is the internal GAC process.

The GAC secretariat -- so the suggestion for discussion here is that the GAC secretariat will call for comments to be provided by the GAC email list within five days. The leadership group and the secretariat will summarize comments and make a

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recommendation to the GAC to accept or reject the petition. The GAC will decide to accept or reject by simple majority.

And this is to determine whether a petition goes forward from the GAC.

Thank you.

CHAIR SCHNEIDER:

This is -- this is a proposal that has several elements. Again, it's just a proposal that has several elements in it.

Given the very short time lines that we have, we propose that it may be good to introduce some time lines within it and to try and structure and channel the process. So the -- one first element is that as a first round of the internal discussion, the GAC secretariat -- could also be somebody else, so that's a proposal -- will call for comments, for an email discussion within five days. This is very -- that's a very short time frame. But as the overall time frame is 21 or 30 days for the whole thing. And then the leadership group and the secretariat will try and summarize all the input from GAC members and turn that into a recommendation to the GAC, or based on that make a recommendation to the GAC whether the GAC should accept or reject the petition or abstain and then propose this to the GAC.

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And then the GAC would have the opportunity to support or reject that proposal coming from the -- from the GAC leadership.

So that's -- that's a proposed way to deal with something coming into the GAC.

So let me -- I have Denmark, Switzerland, and Iran, European Commission, and the United States.

Thank you.

Denmark.

DENMARK:

Thank you, Mr. Chairman.

We have no problems with the five days to give comments and let the leadership and secretariat summarize what have come in. What will be important when a recommendation is made is to underline the public policy issues. That is important to underline that.

The second thing, when I recall our discussion, I think we was more talking about a silent procedure, where it was sent out, and then we should discuss what will happen if somebody broke the silent procedure. And then I also think, from our point of view, we think that we should also here have consensus.

Thank you.

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CHAIR SCHNEIDER: Thank you, Denmark.

Switzerland.

SWITZERLAND: Thank you, Chair.

I feel I share a lot of what has been said by our Danish colleague. I think the instrument of a silent or silence procedure would help. I guess also that their recommendation could be to abstain from one issue. And that, of course, their recommendation should be based on public policy issues or issues that are in our remit.

And I would leave the question of decision-making by some sort of majority to the event that the silent procedure is broken.

Thank you.

CHAIR SCHNEIDER: Thank you for this point.

Just one remark. That our thinking was -- on the framing of this, this is a stage where something comes in and then we see -- basically, we propose -- or we get the reactions from GAC members, and then we need to do something with it. And, in our view, this stage is the first stage to decide, is there an issue that needs to be discussed?

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So if, for instance, 70 GAC members think that this is important, we need to talk about this, the threshold, in our view, this is the reflection should be not too high at this stage. If some people want to talk about something, they should be able to talk about something. So in our logic, we think that the threshold -- and we're happy to work this into the silent procedure in this. That is something that is used in the U.N. and in other fora, so that people are familiar with. But at this stage, the threshold should be low, relatively low, that whatever there is a wish that people discuss has a chance to be discussed. Whereas in case something would move up the escalation, the threshold should be higher and higher, because the things get more, let's say, serious in the later steps.

But to be able to bring something on the table saying, "We have an issue. We would like to discuss it," I think we shouldn't be too restrictive, but that's just to explain is our logic. Of course, you decide how you see these things. That's just to explain this.

I have Iran, European Commission, U.S., and Brazil on my list so far.

So, Iran, please.

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IRAN: Thank you, Thomas. What you said is absolutely right. If a proposal comes, you don't need even majority to discuss. If it is supported by someone or two, discuss. Then you will decide whether to continue or not. You are not killing from the very beginning, that you need 50-plus, one to discuss. No. They're proposed. They're (indiscernible) the proposal unless it is supported by someone. So (indiscernible).

Now, Tom, you refer to the petitions. I think you are talking still internal petitions. You are not talking of petition coming from another SO and AC. So please make it quite clear that this is internal petitions, but not petition coming from another SO or AC. It has different procedures.

Thank you.

CHAIR SCHNEIDER: I see on the screen we basically have both the two procedures, one, as you say, for something that is coming from internal, and then later on, something that is coming from outside the GAC.

The next is European Commission, please.

EUROPEAN COMMISSION: Yes, thank you very much.

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Well, luckily, both Denmark and Switzerland have mentioned most of the cases that I wanted to already, so I think I can probably switch.

Although I wanted to comment that in this case, unusually, I think that for the GAC petitions, something, if necessary -- of course, I'm very prone to ensuring that we have consensus. But in this case, I think a simple majority could potentially be necessary, if the silent procedure doesn't work. But I really follow very much what Denmark and Switzerland have said about the silent procedure as well.

Also, in the interests of time. Thanks.

CHAIR SCHNEIDER: Thank you. United States.

UNITED STATES: Thank you.

From the U.S. perspective, we think everything about this procedure is exceptional. And the GAC taking a decision on such an important matter as deciding whether to accept or reject a petition needs to be a decision based on consensus, not simple majority.

Thank you.

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CHAIR SCHNEIDER: Thank you, United States.

Brazil and U.K.

BRAZIL: Yes. Thank you, Chair.

Just to support the proposal by the secretariat. I think we should not restrict ourself from discussing on this first level. So a simple majority, I think, for this stage, I think, would be enough.

Thank you.

CHAIR SCHNEIDER: Thank you. We note that there are still, like, different views or different ways of looking at this. So maybe the -- using this silent procedure and spelling this out a little bit more into a next version of the document may help to bring us closer together. This is just an idea.

Next is U.K. and then France.

UNITED KINGDOM: Thank you, Chair. Just on that point, yes, support that.

And also, with regard to consensus, I think that's important to maintain that as a general application of a well-based principle.



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I'm just envisioning in the situation, of course, where we're talking about petition coming internally from a GAC member, or an observer. Is that right? Of course, there will be a prehistory of this, no doubt, where the GAC will have had plenty of time to consider an issue which is evolving into a potential issue. So the five-day thing is not a sort of sudden thing that's going to be thrust upon the GAC.

Thank you.

CHAIR SCHNEIDER:

Thank you. I guess you're right. If something comes from inside. But, again, that may come from outside to the GAC, and then will have to be dealt with in the GAC.

But just think about, the petition is -- in the end, is the decision, do we want to talk about something or not. If you have 169 GAC members who would like to talk about something and one saying, "I don't," what do you do?

Olof has something that helps us with facts before we continue.

OLOF NORDLING:

Thank you very much, Chair. And I think we need to remember what it's all about, that it's typically a situation where a rejection period opens for 21 days, when there is an opportunity to file,

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then, a petition of the action, a petition to reject. And, well, that's the situation to deal with. So, I mean, it's a pretty narrow time frame, first of all. And -- well, what happens is that if it's not finally filed, a community objection or the empowered community is not objecting in whatever way that is done, because this is just the first step. Within 21 days, well, it automatically -- it's -- automatically fails. It is not put forward.

So that's -- hence the rush. But it is really -- there are specific situations where a petition can be filed. So it's not just any petition. But it's in relation to the empowered community, various provisions, that the petition is relevant.

Does that make sense? I'm not sure. But it's just not anything that can be subject to a petition, but just matters that are relevant from the empowered community perspective and those provisions in the bylaws.

CHAIR SCHNEIDER:

Thank you.

We have two minutes left. I have France, Kenya, and Canada on my list.

We'll take Iran, and then I'll close the list for today. This is not the last opportunity that we have.

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Please be short, because it's your coffee break that will suffer.

France.

FRANCE:

Yeah, thank you, Chair. I'll try to be is short. Regarding the GAC participation in the empowered community, France agrees with what is proposed in the document.

What we need to be is to be agile and flexible enough to keep up with the rest of the community. So the working methods we use to issue GAC advice, for instance, based on strict consensus, which is pretransition, cannot apply to the post transition GAC role in the AoC. If we stick to strict consensus, it might result in the GAC being unable to participate at any step of the AoC process. So we agree with your -- with your gradual approach for maybe, you know, for the first steps, like petition, and escalation, we can use simple majority if there's no silent consensus. And then if we want to decide to exercise the powers, we can move to qualified majority.

But make sure we don't tie our hands and give one country to block the entire process, because it would be very bad for the GAC to be a participant. Thank you.

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CHAIR SCHNEIDER: Thank you, France. Kenya.

KENYA: Sorry, Chair. My hand was not up. But I would go with what France has just said in relation to that. I think this was a good basis on which we can work on and to try and better it to be able to get a good rationale for participation in the community. Thank you.

CHAIR SCHNEIDER: Thank you. Canada.

CANADA: Thank you very much, Mr. Chairman. We believe that GAC participation in the empowered community at all stages should be based on the GAC's existing and longstanding practice of full consensus. A majority-based approach would not be inclusive of the GAC's diverse relationship.

And may I also request that for our next discussion on this topic on Wednesday, if it will be possible to receive the revised document well in advance so that we can have a bit more time to digest and prepare? Thank you.

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CHAIR SCHNEIDER: Thank you. We'll do our best. But we're not sure, to be honest, whether we have the time to work on a document, given the other issues that we have to deal with. So this is something we need to discuss.

Iran. Please.

IRAN: Thank you, Chair. The petition is not for a fee or any subject. It should be related to the 10 elements mentioned in section 2.1.

Once a petition comes and is supported for discussion and discuss, to send that petition for another SO and AC to the administrator of the EC, that is something we need criteria on. But bylaw does not say consensus only. It says, according to the rules of procedure of internal SO/AC. You could have procedures, either may be consensus or maybe majority. We have not yet there. So I draw the attention of the people that it is in the bylaw mentioned that there is only internal procedure of each SO and AC. We heard from the ALAC yesterday that their internal procedure was two-third. We may have 100%. We may have full agreement. We may have consensus. We may have two-third. We may have four-fifth. But we are not yet there. So we have to send a petition from one SO -- that is GAC -- sorry, to others, we need to have procedures. And this procedure we need to discuss. Consensus or majority. Thank you.

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CHAIR SCHNEIDER:

Thank you, Iran. And I think your point is pertinent.

What we do have is an agreement to work on consensus on advice to the Board. And what we do have is the provision that a simple majority is needed for changing our operating principles. This is what we have for the time being. Thank you.

With this, let us stop here. We know that this is -- that this is a very important work. And we have to try and identify common ground in order to develop procedures that are accepted throughout the GAC. We may not probably by Wednesday come to a stage where we have agreement on everything. But we may have to agree on a way forward and maybe hope that no petition will come because we may not have an agreement on the ways to do it. But, if one comes, we may have to -- we will have to somehow deal with it. So this is just something that, if one comes, we cannot say -- or it's difficult to say, sorry, we're not ready and we don't have procedures because that's not seen in the bylaws that you don't have procedures to deal with it.

So I'll stop here and leave this with you for the coffee break to think about. Thank you very much.

[ Coffee break. ]