HYDERABAD – ICANN Bylaws changes and role of the GAC
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CHAIR SCHNEIDER: Dear colleagues, please do take your seat. We have to resume the meeting. Thank you.

Please do get back to your seats. We need to resume. Thank you very much. Thank you very much. We have to move on as time is moving on as well.

So we will be going to the next agenda item, which is one of a number of -- the first of a number of sessions on the effects on the GAC and its -- its structures and proceedings and so on and so forth as a consequence of the new bylaws that have been adopted in May and come into effect on the 1st of October and these bylaws imply a number of new or modified procedures and mechanisms in the ICANN system that -- where the GAC is also, let's say, part of these mechanisms and has to find ways to work and function in these structures and procedures and mechanisms. You've received a number of documents on -- in this regard, and I will give the floor to Tom, our secretariat, to quickly guide you through and help everybody to those who haven't been able to follow this quite complex process, to get up to a minimum understanding of what this is about and how we -- what elements that we propose as priority issues that we should

solve rather urgently as we may be confronted with cases where we may need to take decisions or act or represent the GAC in some of these structures and we need to have an idea of how we do this, knowing, of course, that some elements are more complicated and complex and will not solve everything in this meeting but at least we need to solve some of the items and we have to have a vision on how to get -- to agree or to find ways to function in all of the -- all of the aspects of these new structures and modified procedures. So let me give the floor to Tom to guide us through this agenda item 4. And please, of course, look -- use the excellent briefing and the papers that have been given -- sent to you in the past days and weeks on this. So Tom, thank you, thank you very much for guiding us through this.

TOM DALE: Thank you, Thomas. Thomas has asked me to run through to begin this session not where the GAC might be going but rather to try to summarize where things are at right now. So as he mentioned, some of these issues -- sorry, all of these issues were covered in the briefing that was sent out on the 15th of October and a few days later. Yes, that briefing was quite substantial. Contrary to some people's views, we don't get paid by the page. I'm sorry, it was a long document, but I will try to provide an overview now. As I say, not just -- not so much in terms of the issues in the brief about questions the GAC has to consider,

because Thomas wants to talk about that afterwards, but rather to give you a snapshot now of where things are up to.

The first point I would draw to your attention is that the GAC sessions on this issue at this meeting or these collection of issues at this meeting, three in number -- well, four actually. We're talking today now until 12:00 or so and also later today from 1615 to 1830. It is on the GAC's agenda for next Monday from 9:30 to 10:30, and finally there's a session on Wednesday, the final day, between 11:00 and 12:00.

The issues that were in the main brief that was sent to the GAC on the 15th of October still remain the three key sets of issues, and that is the structure of GAC advice to the board, GAC appointments to external bodies, and the role of GAC in the empowered community. We did send a supplementary paper on the 26th of October concerning key questions for the GAC, but before we move to that, as I said, Thomas has asked to run through the basics of what it is we're talking about before we -- before the GAC decides what it -- where it wants to go. To clarify firstly very quickly, the status of the bylaws, and you see on the screen in front of you the first page of the -- the overview for the brief, a number of new or amended bylaws came into effect on the 1st of October this year and that was, of course, as a result of the expiration of the ICANN NTIA contract and the successful conclusion of the IANA stewardship transition.

Now, the bylaws come from two processes, as you heard early this morning that the GAC was involved in. One was the process to develop the names community proposal for IANA functions. That was through the CWG stewardship and then the ICG. The other was through the CCWG accountability Work Stream 1. The bylaws themselves are referenced in some detail in the brief.

So the look at the first issue, which is GAC advice to the board, and Gulten, if you can just scroll down a little bit, please, on the document. Perhaps not that far and back a bit where it says GAC advice to the board, number 1. Thank you. That's good. Thank you. The old framework for GAC advice -- and we do have an old framework. It's -- to explain that briefly, under the bylaws from the establishment of ICANN and GAC until the 1st of October, advice from the GAC to the board had to be duly taken into account by the board. The board could decide not to accept the GAC's advice but had to made an effort to find a mutually-acceptable solution. If no solution was found and the board still did not accept the advice, then the board at least had to give reasons.

The GAC itself determined how to prepare its advice. The operating principles of the GAC said, and they still say, that the GAC operates on the basis of consensus in preparing advice to the board. Or by its -- it's important to note the GAC does not make all decisions by consensus. The GAC does have simple

majority voting for things like elections and for amending the operating principles. So that's the old framework.

The new framework for GAC advice has the bylaws changing the way in which GAC gives advice to the board and it does that in two -- the bylaws, which are now legal documents in effect, do that in two ways. It does it directly -- they do it directly firstly and not just for the GAC but for all advisory committees. The direct impact of the bylaws on advice from advisory committees including the GAC is that all those committees have to provide advice in a clear and unambiguous written statement and have to include a rationale, that is, a reason for the advice. But for the GAC, the bylaws also change the nature -- the preparation of GAC advice indirectly. They don't specify it directly but indirectly in effect. As the brief explains, the bylaws create effectively two levels of the board's response to GAC advice. And that means as a consequence two types of GAC advice. The first type of GAC advice is -- explained in the brief is GAC advice however reached, whether it's consensus or not, the board still has to duly take that advice into account and still have to give reasons if the board does not follow it. Nothing has changed in that regard. But a new category of GAC consensus advice has been created in the bylaws. Not in the GAC operating principles, although they still talk about consensus but the ICANN bylaws now specify what GAC consensus advice means. And it means that

consensus is general agreement in the absence of a formal objection, and that's the -- that's the definition in the bylaws. And as it happens, that's the definition that the GAC currently uses for consensus. That sort of advice, that GAC consensus advice, can only be rejected under the bylaws by at least 60% of the board. That's a new provision. The board still has to try to find a mutually-acceptable solution, if there is a difference of views on the advice, between the board and the GAC, and also if the board decides to reject consensus advice, it must give reasons.

So that's the -- a very quick overview of GAC advice to the board. So contain your excitement, please. Don't look at the wording in the brief at the moment on the suggested way forward because I'm supposed to run through the current situation first. So if we just scroll down a little bit, Gulten, to the GAC appointments to external bodies, that's the second issue. Now, you've heard some issues related to this in earlier sessions today. The bylaws create a number of new bodies across ICANN and also the IANA PTI which is now public technical identifiers that the new IANA body -- the new body within ICANN running the IANA function. One of those, for example, is the -- is the Customer Standing Committee, which you heard about this morning. It also creates a number of periodic reviews which used to be part of the Affirmation of Commitments between the U.S. government and

ICANN that are now provided for here. Of course, existing cross-community bodies outside the bylaws continue to operate as well such as cross-community working groups, PDP working groups, and special bodies such as the ICG that was mentioned earlier that are created for particular purposes or indeed the committee that some years ago came up with a new ICANN meeting structure. So there are special bodies in the bylaws of a cross-community nature. There are others of a -- of a continuing cross-community nature.

If they are created by the bylaws then how the GAC or anyone else, for that matter, actually nominates and appoints members to those groups are really up to the internal procedures of the group. So the GAC, as far as appointments are concerned, is completely free to adopt its own procedures on nominations and appointments. But it is a fact, as you've heard from a number of members earlier today, and indeed before now, that the GAC does not actually have agreed and transparent procedures for appointments, either to formal bylaws bodies or indeed to CCWGs. The GAC has, if you like, running procedures effectively for calling for nominations, volunteers, Expressions of Interest, and some discussion about trying to find, for example, diversity or experience or capability. But there are no formal procedures that the GAC has adopted. So the new bylaws do provide an opportunity for the GAC to consider the need to

adopt procedures for appointments to external bodies, whether formal or informal.

The third set of issues concerns GAC in the empowered community. And in some ways this is the more complex set of issues for the GAC to deal with. This is entirely new. There were no particular precedents around this that we can identify. And, of course, the GAC is not the only body within ICANN who was in the position of dealing with something quite new. All of the other participants in the empowered community are dealing with their own procedures for doing that at the same time as the GAC. Some are more advanced. Some are not. But it is new for all.

The empowered community, to be quite clear, is simply a mechanism for the -- the ICANN community to review and change, if agreed, certain board actions and also potentially to remove board directors or the entire ICANN board.

The bylaws say that GAC is one of the empowered communities' decisional participants. Now decisional participant is a new term. There are a lot of new terms, I am afraid, created by the bylaws, but that's just how it is. In this case the decisional participant is simply an participant in the empowered community who can make decisions at different stages. It's no more complex or indeed sinister than that. It also means,

though, that as a decisional participant the GAC has a number of rights and obligations, which I'll mention in a moment. It is also important to please note that if the GAC ever decided to not be a decisional participant, for whatever reason, then the bylaws would need to be amended. The consequences are important and they do flow through to the legal structure of the bylaws.

The empowered community mechanism operates essentially through an escalation process. So it's not just about exercise of powers. It begins with a petition being submitted through a decisional participant to the community, a decision to proceed has to be made. There are decisions about whether to hold things like a conference call, whether to escalate that to a community forum for discussion of the issue. There are all decisions to convene or to receive or to consider matters, not to exercise a power. The final stage of the escalation process involves the use of a community power to do one of the things that the community is empowered to do. That does require a decision to exercise a formal power but that's the -- obviously at the end of the escalation process. We've tried to cover that in the brief in some detail. Instructed to resolve issues through discussion of mediation rather than use of powers. But the powers do exist.

As a decisional participant the GAC has a number of rights and obligations. It is a member of, I think, all the empowered

community administration which is simply the collective body of decisional participants. You may recall that the GAC agreed to the GAC chair being the representative on this new empowered community administration, at least until the matter could be discussed further here in Hyderabad. The GAC has a number of rights as a decisional participant including supporting, objecting, or abstaining from approving certain board actions, receiving petitions, and requesting mediation or independent review. The GAC as a decisional participant also has obligations as well as rights, and the obligations include informing its constituents, whoever the GAC decides its constituents are, of board actions and to provide a rationale for GAC positions as a decisional participant. So that's specifically on all SOs and ACs who are decisional participants. GAC communication with its members, if you like.

The GAC also has to adopt certain procedures for its work as a decisional participant. And when I say it has to adopt certain procedures, I say that because the bylaws require all decisional participants to do that. There -- the -- I won't go into the specifics of those now, but they include things such as how -- who should be able to submit a petition to the GAC, just GAC members or members of the room at large, things like that. What procedures will the GAC have to determine whether to accept or reject a petition to start a review process, at the very

beginning. And at the other end of the process, when formal decisions have to be exercised, how will the GAC reach a position on supporting, objecting, or abstaining.

That's basically the set of issues that are contained in the fairly comprehensive briefing document that we submitted to you on the 25th of October. It's a bit of a gallop through that, but Thomas had asked that we establish the current situation first before moving on. So I'll leave it at that. Thank you.

CHAIR SCHNEIDER: Thank you. I know that we -- our time is limited but given that not everybody has been able to follow this in detail, I think it -- this was -- I hope that this was useful to get everybody at least on a certain level of understanding in the hope that we all will participate in the discussion on these important issues.

So questions, comments on this before we will then go to -- propose the questions that we think are key and priority on the issue. And please try to make your remarks short and precise. Thank you. Iran.

IRAN: Thank you, Chairman. Yes, I follow your advice to be short because of time. I think the important point that we have to decide at this meeting is to confirm our previous decision

assigning you to represent GAC in the empowered community, at least for some time, until we go into the details of the discussions. You have done it up to know. Maybe we extend it another three months, another six months, and in the meantime we come back to that to decide formally what we have to do. This is urgent, and we have to do that one. Thank you.

CHAIR SCHNEIDER: Thank you, Iran. Other questions and comments about what you've heard from Tom. Paraguay.

PARAGUAY: Thank you, Mr. Chair. I support Iran's idea in the sense that it would be good for you to -- even though it's going to be more work for you, you know, and your workload will be significantly increased by this, but I think it's a very good idea, at least for the next two or three months. I support that idea.

CHAIR SCHNEIDER: Thank you. And thank you for caring about my workload. But I don't think that there will be so many cases right now but maybe once we need to be sure what to do with this.

UNKNOWN SPEAKER: (Off microphone).

CHAIR SCHNEIDER: Indonesia, and then Olaf has an important piece of information to share with you that I think we should. So Indonesia, please go ahead.

INDONESIA: Thank you, Tom. I follow my colleagues from Iran and others about the bylaws. First of all, bylaws is important for all of us, important for the GAC, but also important for ICANN so that GAC knows exactly as in the written agreement with written in the bylaw as how we can -- we should do so our advice, for example, has to be fully considered or just treated as an advice. So it has to be clear in the bylaw.

Secondly, perhaps we can also be briefed based on the fact that ICANN will be -- and later PTI or the next organization will be a legal entity in California. How the law in California will treat a bylaw like that. Is there any relation as how the local law look as how organizations like ICANN, IANA will differ. Or see how this status of the bylaw within the organizations because I'm not familiar with the -- that kind of things like that in the U.S., for example. So I would need more information about that. Thank you.

CHAIR SCHNEIDER: Thank you, Ashwin. Olof, please.

OLOF NORDLING: Thank you very much. Olof Nordling, ICANN staff. I just want to highlight that we have another case in point when it comes to the second issue that Tom enumerated, notably appointment to GAC external bodies, and that is the SSR2, as it's abbreviated security, stability, and resiliency of the DNS review, the second such, which previously was an Affirmation of Commitments review with a special selection process between the ICANN CEO and the GAC chair which now, according to the new bylaws, the selection will be done by the SO/AC leadership jointly.

And as you, I hope, have all seen, there has been a call for -- for candidature and applicants have responded to that, and there has been an overview sent out to all SO/AC chairs. And I have forwarded that little overview of the candidates that have responded so far, or actually the candidates who have responded, because the deadline for application has expired since long.

And the question on the table is really now how should the selection be made.

And to that end, the chair will meet with the other chairs tomorrow in the morning and discuss how that should happen.

But in view of that, your views on how this selection should be done would be most welcome to the GAC list. And also, if I go into little more detail on the spreadsheet that accompanied the mail that I sent around last Thursday, and I'm happy to send it around again, if you can have a look at the structure of that, you will find that it's -- it's a table cross-referencing regions and the candidates, and to which SO/AC, supporting organization, advisory committee, they have self-identified, because that has been the process for the ASO reviews and has been guarded here as well. And you will find that there are three individuals, candidates that have self-identified with the GAC.

Please have a look at those. Please perhaps also have a look at the others that have self-identified with others. And maybe that would be part of the process, really, to look into the candidates jointly from the GAC side. And also, there are subject matter expert, individual experts, who have not identified with any particular SO/AC but rather applied for participating in the review as independent expert.

So views on that would certainly be welcome, but in particular to the GAC list on how the selection process should advance within the GAC, and perhaps also between the GAC and the other SOs and ACs when we make the final selection of the review team.

Thank you very much.

CHAIR SCHNEIDER: Thank you, Olof.

We don't have time to devote discussion on this, but this is a first, as Olof has explained, this is the first time that the selection of such a review team will follow the procedures in the new bylaws. And the timeline is quite -- is quite close. So we need to please look at this electronically, look at the mails that all of us have sent you in the past days.

I will go to that meeting Saturday morning where no decision will be taken, but we will discuss how to do this. And look at the three candidates, if you can. And also an urge to the three candidates that affiliated themselves to the GAC to give you more information about them so that allows you to assess what to do with this, whether to support formally these candidates or not, and so on and so forth.

So this is important, but unfortunately, we cannot concentrate on this right now. We have to go back to the core of this, and I'd like to hand over to Tom to basically present to you the key questions that we propose that we should discuss at this meeting and come to some -- some grips with whatever we have to in order to function for the next months.

Thank you.

TOM DALE: Thank you, Thomas.

The document that we circulated, which I'm just -- on the 26th of October with the key questions on it, I'm searching for it now, but to give you a quick overview -- and perhaps this is something that needs to be considered for how the GAC wishes to best use its 90-minute session this afternoon, which we haven't talked about yet, focuses on those -- especially those three sets of issues: GAC advice to the Board, GAC appointments to external bodies, and GAC in the empowered community.

The decisions that we suggested in the briefing document concerning advice to the Board were about the existing processes for drafting the communique and other advice; is the GAC happy with those that have been adopted more or less in Helsinki. Do you believe they're consistent with the new requirements or are there other changes that you wish to consider?

And, secondly, in the case of formal objections, which is a term not -- not defined or specified further in the current definition of consensus, does the GAC wish to look at the question of formal

objections and at what point they should not be regarded as a block to consensus, if I can put it that way.

That's the first set of basic questions.

The second concerns GAC appointments to external bodies. It's partly about who the GAC appoints; expertise, experience, diversity, and issues such as those with which you're familiar because the GAC did look at these issues in relation to Cross-Community Working Group participation guidelines which you adopted earlier in the year, but more generally for appointments, the question of who -- the criteria for who the GAC appoints is one question.

The second question is how; it's not sure but how the process. Does the GAC wish to -- In making nominations and appointments, does the GAC wish to look at a full consensus requirement for any names going forward? Do you wish to consider a simple voting majority if there are competing candidates or nominees? Do you wish to have some provision for nominees or appointments made by the chair or by the leadership group, for example?

So it's the who and the how.

Finally, the questions, as we understand it, in relation to GAC and the empowered community relate to, firstly, the petition

stage. How the GAC wishes to treat petitions from members of the community or, indeed, if it wishes to limit it to GAC community, however you choose to define that; procedures for dealing with escalation beyond the petition stage, under what conditions would GAC agree to escalate a petition to, you know, a community forum. And the process that the GAC wishes to adopt in deciding whether to participate in things like conference calls and community forums. The GAC is not, as a decisional participant, required to join in those discussions, but clearly there will be some cases where the subject matter is such or the expectations of the community are such that the GAC would -- many GAC members, at least, would wish to have a view. So the question is what sort of process does the GAC wish to -- or what sort of options for that process of participating does the GAC wish to adopt? And, you know, how long does the GAC wish to study these matters for?

The question of exercising powers and the actual vote that the GAC has concerning exercise of powers; that is, to support, object, or abstain. And if the GAC does nothing, then that was counted as an abstention. So that's a de facto decision.

Does the GAC wish to adopt particular procedures for reaching a position of support, object, or abstain? And will that vary? Do you wish that to vary depending on the issue concerned? For example, removal of board members. Is that an issue that the

GAC may wish to have a different procedure for compared to, say, review of an amended bylaw or an ICANN budget or to other issues that may come up.

Finally, there is a general question which I mentioned earlier about GAC communications with its members on decisional -- on empowered community issues, because it is not -- This is new GAC business. It is not core GAC business in terms of providing advice to the Board as previously understood.   This is a community-wide set of powers, and new territory not just for the GAC but for other members of the community. So are there issues that the GAC believes are special concerning communication on these issues? Are there issues of timelines that GAC thinks are different in this area? For example, how public should this information be when the GAC has a petition submitted to it, for example?

So those -- That's a very quick summary of the issues. We do have some materials to present at the session this afternoon, if that's what -- if that's the order that the GAC wishes to deal with the issues in.

And finally, of course, there are a couple of more immediate issues that some people have raised. Iran has noted the importance of the GAC's representative in the empowered community administration, which is currently the GAC chair.

And Olof has noted some immediate issues concerning appointment to security and stability review, which is one of the first under these new bylaws.

So I think those are the basic questions. We do have some more detailed material to put up at the next session, but some feedback, I guess, at the moment would be useful.

Thank you, Thomas.

CHAIR SCHNEIDER: Thank you, Tom.

So these are the questions that we propose you to focus on, and we have something like 15 to maximum 20 minutes left to get your feedback that we will use to structure the session in the afternoon, which is more than two hours, in order to see how you feel about these issues, where we may have easier consensus, where discussions may be more difficult. So please provide us with the feedback, with an initial feedback on the questions which have been presented to you by Tom.

Thank you.

Iran.

IRAN:	Thank you, Chair. Feedback. We should use, to the extent possible, past practices which have worked; e.g., for instance, assignment of leads for the group. You did it electronically and you succeed to get the agreement of the people. You do the same thing. We don't need to discuss it in detail.
	Now, why I am proposing that. We have a lot of vote to do in the next six months, and we don't want to decide something on (indiscernible) and in rush. So we decide on something which is absolutely necessary and urgent, and we put the remaining for further discussions. And in the meantime, we would have something on the provisional basis and provisional arrangements.
	That is my feedback to that. We have a lot of work, because if you want to do everything at this meeting, it would be absolutely difficult because people may not be prepared. So do it minimal. For instance, exercising of the power. It is not urgent. It may or may not happen at all in the next three months. But at least we can decide that this meeting is very, very critical.
	Thank you.
CHAIR SCHNEIDER:	Thank you, Iran.

The Netherlands, please.

NETHERLANDS: Yes. Thank you, Chair. And thank you, Tom, for the explanation.

Just one question which comes to me is the fact that we also should decide on which things should be in the operating principles, which should be maybe in a kind of guiding document, and which we don't -- and some things which we don't have to make a, let's say, some guiding instructions for.

So I think just a question of what is minimally essential to be changed in operating principles is also a question to be add I think in the afternoon.

TOM DALE: Thank you, Thomas. The procedures that the GAC may wish to adopt here, and whether they're provisional or temporary or whatever conditions the GAC puts on them, could be reflected in the existing operating principles structure, but it's not necessary. The GAC has the option of structuring its own internal procedures in any way it likes, and the bylaws make that clear.

And it may be that principles mean one thing and are set at a particular level, and actual procedures, more detailed

procedures on, you know -- if, for example, if there is a petition, then it should come from a GAC member and it has -- there are ten days to consider it online, or things like that, may be something that could be in a separate document if the GAC believes that is appropriate.

Certainly there are no particular barriers of, you know, procedure, precedent, and certainly nothing in the bylaws that would stop the GAC adopting anything it wants.

So it's quite open as far as I know.

Sorry; did you --

NETHERLANDS: Just to chime in. The possibility that we are, let's say, having -- taking a decision in the GAC could be contradictory to the -- I don't know the operating principles by heart, but if the operating principles fix the fact that we are not -- that we are only advisory board, committee, then there could be a contradiction.

I'm not a jurist, lawyer in this case, but let me say it differently. There should not anything -- should not be anything in the operating principles which inhibit us to take on our role.

Thank you.

CHAIR SCHNEIDER: Thank you. Thank you, Netherlands. Just a few elements. So if you have been following the discussion of -- of the working group on operating principles, for instance there was one element under the green category that was about voting in the GAC and that the chair should or should not have the final vote in a cast. So there are provisions in the operating principles that allow the GAC to take decisions, including even voting, which I think has never really been used, but it would be there.

And in addition, as Tom as said, these operating principles are mainly -- have been put together with a view for the function of the GAC to give advice to the board. If now, like everybody else, we have other functions in new structures, the GAC is free. We can decide anything we want outside of the operating principles as long as there is no contradiction in the sense that would be a problem to the operating principles.

But some -- some things that we need -- we need to do from now on is, for instance, we need to give a rationale to all the advice that we -- that we are issuing, which is something we've already started to do in Helsinki.

We also need to indicate if an advice is -- is -- according to the bylaws, we need to indicate whether a piece of advice is based on consensus, as defined in the bylaws, with full consensus in

the absence of formal objections. In case we are not -- we do not yet have a definition yet of what a formal objection is, and so on and so forth, that is something different, but we need to indicate whether this is the case or not.

And then of course we may not have like a fully-fledged process of something that goes into the empowered community to the final stage, but we may have things that come up where people request a discussion in a community forum or on one of the lower levels. And we may have to have a structure that allows us to take a decision, yes, we agree that this should be discussed in a community forum or not, for instance. This is just -- This may come up. It's not -- We don't know.

So -- But whenever something comes up, somebody puts a petition from inside the GAC or outside the GAC, the GAC will have to react to that petition.

So at least for the lowest stages of these -- of these dialogue mechanism of the empowered community, we need to have an idea, principles or whatever, that allows us, in case something comes to us, to respect these deadlines that are fairly -- fairly ambitious, to take a decision on how to react to something that comes to us. I guess that's like the minimum that we have to achieve here. All the rest, of course we can take a little bit of longer time. And of course we can agree on intermediary,

preliminary, whatever you call it, procedures, and then develop them further at a later stage. But there are some elements that we need to know at least what to do or how to deal with something when something comes in where we need to react before Copenhagen.

Thank you.

United Kingdom.

UNITED KINGDOM: Yes. Thank you, Chair. And you and colleagues are making some very valid points about ensuring that we understand what is expected of us as an advisory committee in the ICANN community, participating in the empowerment framework that is now being constructed. And it's incumbent on us to provide predictability for the other parts of the community so they know what the GAC role would be.

So just a couple of initial thoughts as feedback. And appreciate very much the secretariat, Tom's, presentation here and a very full account and the advice and the briefing note for us. It's very helpful.

And in addition to the aim of providing predictability and certainty of what the GAC would do in certain situations, we need to be mindful of the very tight frames. And that point is

underlined in -- in the briefing note. So we've got to be thinking about the practicality of how we actually can fulfill a commitment, act in a particular way, which we are going to agree. And we have to agree that.

So there's that. Predictability, practicality.

And a final point, participation in the empowerment framework for me at any level, if it's at the early stages of a community forum, we can be participating as an advisory body and that could be or should be actually put down in a formal way so that once, for example -- just thinking off the top of my head -- a petition reaches the stage of acceptability so that there will be a community forum to fully expand the issue at the heart of the petition, then there is a trigger. The GAC advice should be sought, and the GAC may then decide there's no public interest issue for us here so we're not going to provide advice. So we have that sort of formal step to communicate. We are not going to advise or we are going to advise. And you have to wait before convening the forum for our advice to be submitted. So we could develop or we would need to develop some kind of formality of steps and whether these have to be fully set out in the operating principles. I guess they would have to be, so that again people would know ah, there's the point of reference. What is the GAC procedure. So we embed them in the operating principles. And then further up, right up through the escalation

path, that could be our decisional contribution, to provide advice. Not to take part in a vote, but we could still envisage scenarios whereby, beyond the community forum stage, the GAC has to provide advice. And then the advice is acknowledged, and then a response is provided by the rest -- by the petitioners or the supporters of that petition to that GAC advice. So I envisage a kind of role expanding on our current advisory functionality applying in the empowerment framework. And that has certain practicality benefits, I would have thought, over taking a decision to join a petition to remove the board by exercising a vote. That might be very difficult for some administrations actually to be able to contribute to a GAC decision on whether to exercise that vote. So those initial thoughts are from me. I hope that's helpful. Thank you.

CHAIR SCHNEIDER: Thank you. Other initial thoughts, comments. Argentina.

ARGENTINA: Thank you, Chair. As representative of the government of Argentina, I would like to stress the fact that this is a new stage in ICANN, in the ICANN structure, and the GAC has a new role and has new opportunities to engage and to participate. And I think as a general thought and reflection we should see it as an opportunity of enhancing the role of governments within this

organization that in general has put us always in only an advisory role to the GAC -- to the board, sorry. Now we have this opportunity of expanding our opportunities to not only to advise but also to participate actively in different areas. So my general comment would be that whether the operating principles should be updated or we should see it as an opportunity to really enhance our involvement in the whole ICANN process. And so I won't see it as a limitation of only being an advisory board. We have the opportunity of being something more and engaging the role of governments in a higher level in this organization that at this moment has been not so much. Thank you so much.

CHAIR SCHNEIDER: Thank you, Argentina. Iran.

IRAN: Thank you, Chairman. I'm not sure whether the issue of empowered community should be in the operating principle or elsewhere. I'm not sure yet. Because operating principle could be changed quite easily by simple majority, and we don't want for the empowered community have the risk of something which is not stable. I'm not excluding that, but I'm not happy that we should say that certainly operating -- maybe some other mechanism, some other (indiscernible). I heard from one of the colleagues that he jumped into conclusions and saying that we

do not participate in any decision-making, even if our interests are at risk. I have difficulty to agree with that. We have (indiscernible) discussed. The view was expressed as fully respected. That is a view. It is not the view of the GAC. Thank you.

CHAIR SCHNEIDER: Thank you, Iran. We have a few more minutes that we can devote to this. Any comments are welcome as initial as they are because they help us shape, prepare the afternoon session. So don't hesitate. Switzerland.

SWITZERLAND: Thank you. Thank you very much, Chair, and thank you so very much to Tom for this good briefing. I would like to put forward the initial idea or the preliminary idea that the new ICANN is subject to accountability framework which is now dependent on how the community works and the GAC is part of that community at the same level as the other SOs and ACs identified in the bylaws. So this is a function which is prescribed by the bylaws. I would urge colleagues to look into the bylaws. How detailed they -- they are in describing this. I don't think we are at the stage where we can come up with new solutions which are not consistent with the bylaws.

And the accountability, which is something key for the transition to have happened, will only work if we all participate in that accountability framework consistent with what our role is in the -- in the bylaws. Otherwise, this key feature of the new transitioned ICANN won't work. So I think this is a key issue we have to bear in mind. Otherwise, we may come -- come up with nice solution, nice solutions, but that are baseless if you look into the bylaws. Thank you.

CHAIR SCHNEIDER: Thank you. Actually in the briefing paper, for those who do not have the resources to go for the whole text of the bylaw to find the areas, in the briefing paper that you've received, you have the references and the copy text of all relevant parts of the new bylaws attached to that paper. So you -- all you need to do is, if you haven't already done this, take the briefing paper, go through the items, look for the references to the bylaws, and you find them in the back. So again, this shows how useful our ACIG support secretariat is to us, and just let me use this as a reminder that -- you have all received letters from my minister who is the vice president of the Swiss confederation this year, will be the president of the Swiss confederation next year, that invites all members and observers of the GAC to think about how to secure funding for the independent GAC secretariat because this is a good example of how valuable their work is to us and we

would not want to have to work without them in the future, which is what is at stake currently. So with this small intervention, I see France that wants to quickly take the floor, and then I think we have to move on to the next item and continue in the afternoon. Thank you.

FRANCE: Thank you very much, Thomas. France speaking. I have a brief comment. France fully agrees with Argentina's remarks. GAC will keep playing a role as an advisory committee within ICANN. But there are some aspects that are related to the post-transition period where the GAC would have a different role to perform. So we would have to add as decision makers within the empowered community. The rest of SOs and ACs are expecting the GAC to play this role. So we have to be open and find mechanisms that will allow GAC to play this new role within the post-transition ICANN.

CHAIR SCHNEIDER: Thank you very much, France. Any other comments in the room? Well, I think there's none, so please get ready for the meeting this afternoon because in the afternoon session we're going to continue with this discussion and it is very important for the GAC, as it was said by the representative of Switzerland, this is important role not only for GAC but for the performance of

the whole of the ICANN because we are -- we are having new bylaws and we should not leave aside certain aspects or certain things. So let's move back to the other issue in the agenda, item number 5.

[END OF TRANSCRIPTION]