
COPENHAGEN – GAC Implementation of the new ICANN Bylaws – Part 1

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CHAIR SCHNEIDER: It's the GAC implementation of the new bylaws, something that we've already worked on for quite some time. And it's maturing the discussion.

Maybe before we go into the substance of the papers and our step processes, a piece of information for you that this morning, I have had a meeting where ICANN staff has invited the administrators, the EC administrators of the different participants, the five participants in the empowered community -- the ASO, the ccNSO, the GNSO, the ALAC and the GAC -- for a meeting to discuss how these procedures that are, for the time being, on paper can be developed also, knowing that, as you have been informed, there is a case -- there will be a case coming where we'll have to use this empowered community structure fairly soon.

It is the decision of the Board to change its -- the range of its governance committees and create a new structure that, per se, requires a fundamental bylaw -- or a change in the bylaw that is

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a fundamental bylaw, which means that the empowered community has to say yes to this change.

The way it looks now on substance, this does not seem to be very controversial in the sense that people see the logic or the rationale or do understand the rationale of the Board for having taken that decision at the meeting at the Board retreat in Los Angeles in Santa Monica in the beginning of February.

And everybody's now willing to, basically, use this as a first exercise -- I would call it test, but it's like something that goes in that direction -- and, fortunately, on something that is not too controversial on substance to see how this process works. And we've had a discussion this morning about, for instance, the very tight timelines that this entails. How to use public -- ICANN meetings versus virtual meetings and so on, how to deal with the 21 days limit and how to make sure that the 24 hours that the representative of an SO or AC has to actually then respond at the final end, how all these things are managed.

And the expectation so far or the plan so far is that there will be a community forum organized somehow in Johannesburg at the next ICANN meeting. This will be developed in the next coming weeks and months.

So we have to be ready -- I would say we should be ready to participate in that structure in Johannesburg and, yeah, to contribute our part to making this model work.

As I said, we're very fortunate that this is something that is on substance not very controversial. So we can actually concentrate on the process and spend some time thinking about how to best do this.

And we will keep you informed about how this is going to develop. But I think we should use this as an incentive to now come to or shape a little bit more concretely our procedures, our common understanding of how we are going to participate in this structure and -- so that we are ready to participate in this, at least in the community forum that will take place in Johannesburg. I'll stop here and give the floor to Tom, which has been working with me on the papers that you received with the proposals.

These are built on the discussions and on the logic we started to develop in Hyderabad that we thought was a good start to this discussion. And I think we should try and really focus on the pragmatical elements of making -- of doing our job and making this model work and see how can we best fulfill our role in that structure.

I'll hand over with this to Tom who will quickly go through the documents that you've received as part of the briefing papers of the second series of briefing papers. So, Tom, please go ahead. Thank you.

TOM DALE:

Thank you, Thomas. And good morning, everybody. While we're waiting for the overview briefing document to go on the screen -- I think it's already been shared in Adobe Connect.

To add to what Thomas has just said, firstly, this process and the approach of the secretariat working very closely with the GAC chair has been to prepare information and suggestions for you based on a continuation of what the GAC had discussed, many of you will recall, in some detail at the last meeting in Hyderabad. So we're not, I believe, raising any issues here that were not at least touched on in what was quite an extensive discussion that the GAC had on the new bylaws at the meeting in Hyderabad.

The material has been prepared in some detail. We sent you an overview document, which you see on the screen which I'll go through in a moment. We also sent three more detailed documents. And the three detailed documents cover the three areas of GAC advice to the ICANN board, in particular, the definition of GAC consensus advice and other GAC advice.

Then there was a paper concerning GAC in the empowered community, including the GAC's procedures for dealing with the sort of issue that Thomas has just mentioned, which is the first matter to be raised under the new procedures concerning approval of a change to the fundamental bylaw. So some procedures have been suggested there.

And, finally, there is a detailed briefing concerning how the GAC goes about making appointments to external bodies more generally. As you know, that issue has a long history as well.

The issues are set out, we believe, in a logical sequence. And, again, reflecting what you asked for more information on in Hyderabad. The logical sequence is to, firstly, look at how GAC advice is characterized as consensus advice. Because that term has a very specific meaning under the new bylaws. And, in particular, how any objections that the GAC members may raise can be handled with a view to achieving some sort of consensus advice, if at all possible.

Having clarified those matters, the GAC could then move on to how to participate in the empowered community at the different levels of escalation, starting from receiving complaints or petitions, community forums, attempts to resolve issues and then ultimately potentially exercising a community power as one member of the community. And finally the question of GAC

appointments, although perhaps not so critical as the first two issues, is still an unresolved area, not just for appointments to new positions under the bylaws but more generally because as you're well aware the GAC has no settled procedures for appointments to a range of bodies in ICANN, including cross community groups, policy development process, PDP working groups, ad hoc groups, and so on. The GAC adopts procedures as they need, on an ad hoc basis, which the brief provides some alternative suggestions for.

So to quickly go through what's in the briefing papers, they all -- they contain some proposals. I hesitate to use the term "straw man." That's a bit of jargon, but certainly they do reflect in-depth discussions with the GAC chair. So what is being proposed firstly in these briefing documents with the GAC advice to the board is to develop some procedures but dealing with formal from GAC members to GAC advice to the board. The suggestion is that if there is one formal objection that would be reconsidered -- the advice would be reconsidered at a subsequent meeting but not be allowed to block consensus advice if there is no further support. And finally that if there are a very small number of objections that any advice could be considered as GAC advice but not GAC consensus advice. That's the first briefing paper. Come back to this in more detail. I'm sure Thomas will want to say more.

The second set of briefing -- proposals in the briefing concerns GAC participation in the empowered community. And the document that we circulated suggests these things. Firstly, to -- it suggests a number of guiding principles for the GAC to participate at all stages of the escalation process. Secondly, it proposes some arrangements to support the GAC chair in representing the GAC in the empowered community administration. The empowered community administration is the -- simply the collective body of participants of all the other supporting organizations and advisory committees. Thirdly, the paper proposes for stages 1, 2, and 3 of the escalation process, which is essentially petitions, conference calls, and community forums, that the GAC will take an active role in all of these phases. A course of action to be proposed by the GAC leadership and -- would be followed, unless more than three objections. In this case a full discussion in the GAC would take place. Now, the paper attempts to make a link between the rules for considering formal objections in the first paper and how to use that in reaching outcomes for GAC in the empowered community.

And finally, for stage 4 of the escalation process, which is where the community, including the GAC, actually exercises collectively a community power, the proposal there is for the GAC to adopt a position for or against the exercise of a power only if there is consensus in the GAC.

Finally, and very quickly, in relation to GAC appointments to external bodies, the third briefing paper, simply proposes that the GAC consider developing some procedures for appointments, including possible selection criteria and also performance and reporting guidelines for appointees. So that's the sequence of -- I hope a logical sequence of how the briefing has been prepared. As I said several times, and I can't emphasize enough, that's been prepared very much in very close consultation with the chair of the GAC, and I'll hand it back to him now to initiate discussion. Thank you, Thomas.

CHAIR SCHNEIDER:

Thank you, Tom. We have time until 12:00 for this, and as we've heard, we have basically three elements. One is the -- how to proceed or how to define GAC advice, consensus advice, and how to deal with let's say limited or very small number of objections. The other element is the participation in the empowered community. And the third one is the appointment to external bodies. So just to get a sense of how we use this time, our proposal is to go through these documents in that order. Maybe as like a first reading to see are there any problems, are there diverging views, and then that would allow us to allocate the time to where, let's say, the biggest challenges are, in case there are, if that's okay for you. I think we should

start with the first of the three elements, which is the GAC advice to the board.

As Tom has outlined we've basically built -- we are building on the Hyderabad discussion which is, of course, built on the bylaws themselves. So -- and the -- in the bylaws, as you know, we have now two different levels of board reaction to GAC advice. One is an expected reaction of the board on GAC advice, irrespective of whether or not the -- there are objections or not. And then a second level is the expected board reaction on GAC consensus advice, with a capital C, understood as full consensus advice with no formal objections. And you have some proposals on how to -- this could be dealt with. And, of course, what is not in the bylaws but what we have in the operating principles is that in case there is no consensus at all in the GAC on a particular issue, that then the full range of views should be conveyed to the board on a particular issue. That's like the third, let's say, level of no consensus at all. So any questions or remarks on the document and the proposal -- proposals it contains and how this could be dealt with in the future? Yes, Egypt.

EGYPT:

Thank you, Thomas. And thank you, Tom, too. Thank you both for the effort and the brief papers. They are extremely helpful and well-balanced.

I have a question regarding the categorization of the GAC advice. I think we have four categories here, pages 2 and 3. And I'm a bit confused about the difference between 2 and 3. GAC advice, consensus advice, broad great but with up to three formal objections whereas number 3 states, GAC advice, also broad agreement, but with a very small number of formal objections. So I'm not sure what's the difference here.

CHAIR SCHNEIDER:

Thank you. Looking at it again, there are two elements to this. One is how to deal with formal objections over a timeline, as you -- I think it's mentioned somewhere in the paper there, in the report of the CCWG, the GAC was explicitly given some freedom in defining how to deal with one or a very small number of objections that could maybe block, let's say, or prohibit a consensus GAC advice over a certain time but maybe not forever unless, for instance, if you have only one objection to a proposed GAC advice, that could prevent this from being consensus GAC advice as defined in the bylaws and this is a proposal to think about maybe for one meeting for the time until the next meeting, if then at the next meeting somebody, another

GAC member, would join that objection, that would then basically have the effect that this proposed GAC advice would not be a GAC consensus advice as -- as defined in the bylaws. In case that no other delegation would join the objection or would support the objection, that objection would, let's say, expire in a sense that that could not prevent any longer this proposed advice from being considered as consensus advice with no formal objection. This is an attempt to implement the possibility that is explicitly given and was part of the agreement also in the GAC at that time when accepting -- or not objecting to the CCWG report that there will be some mastery manner in how to deal with this consensus and absence of formal objection definition. So that is one element.

Another in the proposal is that this could go until up to three formal objections. That would like have to be supported at the next meeting in order to not expire. And then the next element, which is the point number 3, is GAC advice which is built on a broad agreement but not on consensus, that would be, let's say, the second level of GAC advice that is foreseen in the bylaws, but knowing that such an advice would not, in case the board would reject it, first of all, it would not need a 60% majority in the board to be rejected. It could be rejected by simple majority in the board and it would not trigger the procedure that is outlined in the bylaws that is now explicitly limited to GAC consensus

advice with no formal objection. So that is a lower level of, let's say, impact and so there are these two.

So basically 1 and 2 belong together. The point two is a proposal on how to operationalize the possibility that GAC has to say okay, if we have one objection or let's say up to three, a number to be defined, we can take note and this can block a consensus advice for a certain time. And then all the other GAC members have a chance to look at this, look at the rationale for the objection, and decide whether or not they would like to join the member or the members that object. And if others join, then this means that this is not a GAC consensus advice as defined in the bylaws. If nobody joins in a particular period of time, that means that this would nevertheless be considered as a -- a consensus advice, according to the bylaws. I hope I'm making this clear. I think the respective text of the bylaws and of the report are cited in the document so that you can -- you can refer to them and see where this comes from. Thank you. Egypt.

EGYPT:

Just a very quick follow-up question. So in number 3 when we say, with a very small number of formal objections, does this mean more than three but still very small, I mean?

CHAIR SCHNEIDER: This is up to the GAC to decide whether you want to have a -- I mean, in other parts of ICANN they have notions of 70% or 80% whatsoever for something that doesn't require a full consensus in the sense that there's no objections, so they allow for a certain number of objections. So if we use this, we can define a certain percentage or a number of objections, or we can leave it as a small number and then leave it up, in a case that this would occur, to define it on the spot. This is a proposal. It's a start of the discussion. This is a proposal to try and implement the situation in the new bylaws with these different levels of advice. But this is, of course, a very important thing that we need to seriously consider. What do we want and how do we -- if we agree what we want, how do we actually operationalize it. Thank you. Egypt.

EGYPT: Yeah. One last question, and I'm willing to take this offline if I'm the only one confused. But I'm just trying to see that the very small number, is it below three or above three? I'm trying to see how do we categorize the different levels. So is this more consensus or less consensus? Thank you.

CHAIR SCHNEIDER: Thank you. This is -- this is not something that anybody can tell the GAC. The GAC needs to take a decision itself. These are

proposals that should help us finding a way to implement or develop our procedures according to the new bylaws. So it -- these are just -- whether it's three or whether it's -- there's no number or we say it's just one or whatever or whether we use all these four levels, it's just a proposal. Thank you. I have China and then Iran, Australia, and Denmark.

CHINA:

Thank you, Chair. And thanks, Tom, for briefing this paper, and thank you, Chair and Tom, for preparing this paper.

Actually I have two things I want to seek clarification. Actually the first one was just raised by Manal. It was about a very small number. And it seems to me that in number three, in brackets, GAC advice, broad agreement with a very small number of formal objections. You see the number 4 in the brackets, communication of range of views to the board, more than ten objections. It seems to me that the small number is ten. So you -- Mr. Chair, you have already responded to it is up to us to discuss this issue right now. So I just want to hear what other colleagues' view on this issue of what is a very small number.

My second one is, this paper proposed an approach when there is one particular formal objection we seem to -- we may -- the approach proposed by this paper seems to that we -- we adopt an approach that we can -- after a certain procedure, we can

ignore the one particular formal objection. And my question is, should we also communicate the view of the one particular formal objection to the board if we adopt this procedure. Thank you.

CHAIR SCHNEIDER:

Thank you. This is again something that the GAC can decide, in case we have a -- we don't have a consensus, a full consensus with no formal objection, in case we have an advice with objections, then it's up to the GAC to define whether these -- these objections would be communicated either by name or with no names or giving the reasons for why these object, this is a new situation with new bylaws where we have to develop our ways of dealing with this or responding to this new situation. So it's -- this is up for discussion. Iran and then Switzerland, Australia, Denmark, and Canada.

IRAN:

Thank you, Thomas. I think our understanding is different from understanding of Tom. Totally different. The situation has been totally mixed up. What was agreed at CCWG and in bylaw and we need to be revised extensively. Starting with treatment of GAC advice by the board, dividing it in two part. Advice, GAC advice with GAC full consensus but not full GAC consensus. The

term should be reversed. GAC full consensus. And that has been described in bylaw, in absence of formal objections.

And then explain that what is that GAC full consensus situation. It means that if the board reject that GAC advice with 60% of board member, it still, because it is full consensus, need to come back to GAC and find a workable way to resolve the issue in a faithful manner.

And then the other type of advice is the advice which is not advice with full consensus. Normal advice with several. In that case, if the board reject that, board does not need to come back to GAC. That is that. The starting point will be this one.

And all of these numbers here is arbitrary totally. And we have to revise that, and we have to not rush into the situation. It is very, very complex, and we need to go to the expertise of those who have participated in the activity of that, but not put it on something of the understanding of someone, one or two people. So it requires actions. I don't take that as a first reading. I think as a draft we would look at that one. I don't know whether we have time to do that one at this meeting or not, but there still need to be totally redrafted.

Thank you.

CHAIR SCHNEIDER: Thank you, Iran. Well, actually, I'm trying to check. It maybe there has been something, particularly with the title 2 and 3, that this is not the absolute correct version, not the final version, but this is an in-between working version that has been sent. So I'm about to try and check.

But of course you're right, and this is no contradiction, we have two these two situations. One is the treatment of the advice that goes for all kind of advice, and the second one is the treatment of advice that goes for GAC advice, whether it's full GAC or GAC full consensus is something we'll look up and correct if necessary, but where there is no formal objection.

So these are the two things. And the third one is then a situation where there is just diverging views that will be conveyed. There is no mentioning of this in the bylaws, as I said, but of course this is part of our operating principles, and we'll do this.

And in the situation of -- of GAC advice with no objections, we have, as it is -- as I mentioned before, we have the option to deal with one or a very small number of objections to introduce a time sequence that this can block a full consensus. This is an option that we have. We can decide that we use it. We can decide that we would not use it. This is up to the GAC.

And the idea of the paper was to introduce that in -- in the part where we have the full consensus discussion. So how if you

want to deal with one objection or very limited number, and how long can this block a GAC advice. But I'll try and find the document that -- to see whether this is really a -- the correct version that has been sent out.

Next is Switzerland. Thank you.

SWITZERLAND:

Thank you, Chair.

Perhaps it would be good to have that final version, if there's -- there has been some glitch with the document. But anyway, on - - on the level of principle, so to say, although I'm a bit afraid of using that word this morning, I think that the idea behind the paper, as I understand it, that we have, like three levels: the GAC full consensus advice according to the bylaws, and then there is this element of the one formal objection which could be managed and taken to the next meeting, and if it's not supported it would no longer block the full consensus. I think that's a good approach. It's also a good approach, I think, and it is also very consistent with our practice of always striving for very broad agreement that the next level of advice that simply triggers the need for the -- for the board to answer, but that doesn't trigger the mutually acceptable solution procedure, that there we have also broad agreement with very limited number of formal objections.

And I saw or I understood that the level would be around three. Of course we can discuss that. And in the end, numbers are always arbitrary, but we will have to find some -- some -- some number in the end in order to have some predictability.

And the third level really is if we have more than that small, very small number of objections, we don't even call it an advice because it's a range of views. So it's, again, three levels: Full consensus; no objection with the possibility of managing one objection in the -- in the subsequent meeting; second level, GAC advice with up to three objections; and third level, the range of views if there's more than that.

And I think that's that sense. Yeah.

CHAIR SCHNEIDER: Thank you. Australia.

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AUSTRALIA: Thank you, Chair. The Australian government is on the record a number of times I think in our support of consensus decision-making. I think it's a good way to make decisions. It makes sure all countries, big and small, can have their voices heard.

And also, I think that consensus -- a consensus decision by the GAC is really powerful. When all governments speak with one

voice, that carries a lot of weight. And I think if we go changing the definition of consensus, we risk taking away some of the power of our advice when there is consensus.

So I think consensus is no formal objection. And in the case where consensus can't be achieved, we -- I think we should continue to do what we've always done. Sort of provide the range of views. I'm willing -- I think we should consider what we do if there is a range of views. Whether -- I know in the past we've sort of just said some governments think this, some governments think that. Perhaps we might want to think about what we do when some governments do disagree. Do they want to identify themselves and say why they disagree or -- there are a range of things we can do if we don't have full consensus, but I don't support any changes to the definition of consensus.

Thank you.

CHAIR SCHNEIDER: Thank you, Australia.

Denmark.

DENMARK: Thank you.

First of all, thank you to the embassy for Swiss cheese last night. It was good, but I also think I'm a bit heavy in my stomach and in my head. And that's why I -- I really didn't understand the proposal with three and very small and ten. It is a bit confusing. If -- If what the Swiss said was the intent of this, then I think I understand it now a little better, but it will be good to have a chart where you can see what you -- what this suggestion really is about. Then we can discuss whether it's a good suggestion or good strawman suggestion, what the level should be.

But from a -- from our point of view, we are very much in line with what the previous speaker was saying from Australia. We think it's really important that we strive for full consensus.

I know that we, in this forum, have been discussed before and there have been, during my time here, one case where one single country was going to block something it managed. So if possible, we could consider that part of the proposal in a positive way, but our -- part of our thinking was, first of all, to go for the full consensus.

I think there have been -- have been the real power of GAC advice when we have achieved that.

Thank you.

CHAIR SCHNEIDER: Thank you, Denmark.

Canada.

CANADA: Thank you, Chair, and good morning all, and thanks again for the reception last night.

I would share the views that were just expressed. And I'm just reading from the bylaw and it actually says, "Adopting decision by general agreement in absence of any formal objection." That seems to be quite clear. I'm really a little puzzled why we're having this long discussion and sort of agonizing about this when it seems to be very clear. And I think we discussed that in quite a lot of detail at Marrakech. And that was the basis of the agreement that we came to in coming to agreement was GAC consensus in general agreement in absence of any formal objection.

Canada does have a longstanding support for the need for full consensus, because that is a strength of GAC advice, as colleagues have said.

When we do have a consensus position, the community listens. And that's what's said very clearly in the bylaw. There has to be a response to consensus advice.

We do support the idea of having a mechanism to support a -- not having a veto. So the idea of you can't block consensus. I think that's a very wise proposal, and it has been used in the past. And the longstanding use of the range of views does allow that people who do not support -- countries who do not support have the ability to put on record that they do not support. And this is, again, a longstanding GAC practice.

And we are concerned with trying to quantify and going into is it three or a few or ten. It starts to get really complicated. So I think just having our longstanding practice of full consensus in absence of any formal objection, and then having the idea of not blocking consensus and a range of views, that seems a very sensible and wise approach, to go with our existing practices and would be consistent and in keeping with what we have agreed to in the past.

So thank you very much.

CHAIR SCHNEIDER:

Thank you, Canada. And maybe it's useful to clarify that this is not an invention from our side but it's an attempt to react to the new bylaws and the CCWG report, which of course is a consequence of those who remember what Stress Test 18 was, and the discussion that we've had and then to find a way that is an acceptable way for everybody to implement these -- this new

definition of the consensus or of -- and this distinction between two kinds of advice that is new to the bylaws. And this is an attempt to offer some workable -- or towards some workable ways of reflecting that in our operating principles in the end.

I have Egypt next, and Brazil, Spain, Iran, United States.

By the way, yeah, we have ten minutes until the break, and then we'll see whether we can send you the -- we'll check with the document, whether we can send -- whether this is actually the right one.

Thank you.

EGYPT:

Thank you, Thomas. And I concur with what has been said regarding the importance of consensus, particularly with what's being proposed that no one voice or no single view could block the consensus. so I think this is a sensible approach.

But the reason I asked for the floor was to concur with what Switzerland has said. So I -- I was -- I was confused by the four levels as described in the paper, but if the intention was the three categories as described by Switzerland, so this aligns with our understanding as well.

Thank you.

CHAIR SCHNEIDER: Thank you, Egypt.

Brazil.

BRAZIL: Thank you, Thomas, and thank you for last night's reception.

Well, I will not dwell too much on this, but just to recall that we firmly opposed the imposition of that rule of consensus because we are totally convinced that this is not a natural way for governments to operate. It's -- Consensus is the preferable way always, of course, but in case there is no consensus, governments have to decide. In each and every fora, organization, there are ways for governments to make decisions and make their views known.

So our strong belief is that by accepting that rule, and you may recall that my delegation together with others, we firmly oppose but there was no consensus in the GAC to support that position. So we ended up with a formulation that, in a way, indicates that in case we have full consensus, we can have a say, we can have a stronger influence in the process. Not a veto, not an imposition of our will, but an influence. If case we don't have consensus, our advice can be easily rejected.

So I think that was the will of the majority of the GAC. We are not coming back to this.

But having accepted that, I think trying to work around the concept of consensus to try to make it more workable and to try to -- to have some influence, which we lost the opportunity to do so. I think at the right time it was decided. I think it is contrary to what countries used to do in other fora.

I would be very reluctant to -- to engage in discussion to rephrase consensus in a way that is not natural and not the way it is seen in other fora.

I think it's good for us to try to explore ways in which we can avoid a situation in which one single voice, one single opposition can block the consensus, but by the end of the day, if that single voice will stand against, we cannot say it's consensus. So we cannot work -- try to play around the expressions.

So again, I think we missed the opportunity to have a stronger influence in the process. We gave away. So now it's useless. We cannot come back and try to work around the notion and say consensus, not consensus, consensus. We know what is consensus.

That's it. Thank you.

CHAIR SCHNEIDER: Thank you. Thank you, Brazil. Well, consensus is consensus. Look at the consensus mechanisms that you have in this organization, and then we'll see.

Spain.

SPAIN: Thank you. My views are very similar to the ones expressed by Brazil. I could just add that if we stick to the view that consensus means unanimity, we are depriving ourselves of the possibility that has been opened by the new bylaws that the GAC can issue GAC advice; that it still has to be taken into account by the board, and that the board has to explain the reasons why it rejects the advice, even if they don't have to reject it by 60% of the vote.

So the way that the proposal structures the decision-making process in the GAC is very sensible because it allows the GAC to issue GAC advice that is still important and still has to be considered by the board.

Thank you.

CHAIR SCHNEIDER: Thank you.

Iran.

IRAN:

Thank you, Thomas. I think we need to look at the background of the issue. When this famous Stress Test 18 was proposed by someone and agreed at the Working Group 1 of CCWG and then CCWG, we raised the point that the way that the GAC full consensus is mentioned could result that we may not have a full consensus at all, because one single government could block, or two government could block.

At the subsequent meeting, in particular in Marrakech, those people came to us and says that that is up to you, GAC, to avoid that one or two government capture the entire GAC by opposing and not allowing that.

So the purpose of this document, this part seems to be really reflecting the reality, is that we have to find a way not to have that situation that one or two government block everything.

This course of action propose that that objection will be recorded, but we (indiscernible) over on that for one meeting and come back at the subsequent meeting and asking that government or governments that you, you objected to this. It means we don't have full consensus. And then board would not come to us for any negotiations.

But remember, next time if there is something, work stream do the same thing for you.

So in order to have something very friendly, please try to reconsider your formal objections, and one aspect of that, you would have abstention. That means you don't formally object, because why you talk of formal objections but not objections?

So in that sense the document is right. And I fully support what is said by Brazil and Spain and others that we need to find that not the GAC be captured by one or two members. That is a very important issue, and that is the heart of the matter. If some colleagues say that is no full consensus, please consider that we may not have any full consensus at all, because one government could block everybody. And that is not fair. Thank you.

CHAIR SCHNEIDER: Thank you, Iran. Portugal.

PORTUGAL: Thank you very much. I'm going to speak in Portuguese.

What I wanted to say at this stage on behalf of Portugal is that we concur with Spain and Brazil. So I'm not going to repeat those comments. I just want to say that the current definition of GAC advice is one of the most important weaknesses in the GAC.

Some people believe that, with the IANA transition, the role of the governments within ICANN is less and less interesting. We do not think that is the case. There is no evidence we are going toward that situation.

Given the current global scenario, we understand that governments play a significant role and that we need to think together what do we want to do with the role of the GAC? Do we want to continue weakening it or not?

CHAIR SCHNEIDER: U.S., please.

UNITED STATES: No problem. Thank you. Thank you for this proposal. It's interesting.

I have to admit there's some areas I'm confused as well, but it's becoming much more clear to me now. But, in terms of understanding the very levels of GAC advice that are being proposed, from what I gather, a lot of this has been handed to us by the bylaws. And the bylaws, essentially, create two levels of GAC advice now.

So, if I'm understanding correctly, the proposal here it's how do we deal with that? So one being full consensus advice, which

gets the special treatment from the Board. The second being GAC advice with formal objection.

So, in understanding those two different levels, we're forced to agree with that. Because that's what's articulated in the bylaws

In terms of formal objection, we stand with some of the other positions made, I believe, by Canada and Australia in that, you know, consensus is always most desirable. But, in those cases where there is formal objection, we still think a formal objection is singular.

We do like what is proposed in terms of steps to address a situation where a single country will block consensus. We do realize that there will need to be mechanisms in place to deal with those situations. And I think, as we've read the proposal, that this is something that the United States could consider. So we appreciate that as a mechanism to deal with those situations.

The third option of GAC advice is still not clear to us what that means.

But, going to the fourth, which is a range of views, from what I gather, that's something that we already use today, correct? It's not that you're creating a new form of advice. This is just

another option that's available to the GAC in situations where advice is not attainable.

So, if that's a correct understanding, I think this is something that we are willing to continue having discussions. Thank you.

CHAIR SCHNEIDER:

Thank you, United States.

And, first of all, it's a Sunday morning. And, after a cheese reception, I should have told you that the cheese is something that is normally heavy to digest for those who are not used to it.

But, to come back to the U.S., yes. The situation is actually -- it's, of course, now more complex than before.

So what we have in the bylaws -- and then we maybe give us the break and then move on to a first look at the second document.

We now have GAC advice. And the treatment for GAC advice -- for all GAC advice, there's no mentioning of consensus. It's just GAC advice.

And then we have a treatment, a special treatment for GAC consensus of advice understood as blah, blah, blah with the absence of full objection. So these are the two levels that we have.

And, to complicate the matter, we have the possibility, if we wish to do so, to in case we want to go for consensus in the absence of formal objections, to define how to deal with one or a very small number or three or two, or whatever, objections in the view of what someone said to prevent one country or, to define a very small number of countries, to block a consensus over time.

And now the question is: How to weave this in? And, first of all, do we want to weave this in? And, if yes, how to weave this in in this logic. It's not trivial.

So it's -- and there are different ways of doing that. We were trying to approach this. But the three elements -- the basic elements is one is no agreement at all. That's the range of views. That is not in the bylaws, but that's the thing that we did.

The second one is GAC advice with not necessarily a consensus, just GAC advice. Then a question is what would be the basis for us to distinguish between no agreement at all and something we propose in this document as broad agreement. But we don't talk of consensus. So the definition of consensus is given.

And the third one is then GAC consensus advice understood as defined in the bylaws. So these are the three levels that we have.

And then, as an option, is this how to deal with one or a very small number of formal objections over time to prevent a single country or two maybe or three from blocking a GAC consensus advice.

So I hope -- that is the thing that is in front of us. Now we have to see how to deal with this.

Let me give the floor to those who haven't spoken yet maybe. And then we make a break, because we will not get through this today. It is also not that urgent. It is important. But the urgent thing is what will come next which is the mechanisms for an empowered community, which is a separate issue. So I propose to take the EU Commission and Norway and then make the break. We let this settle, continue in formal discussions, and then move to the next paper.

So EU Commission, please. Thank you.

EU COMMISSION:

Yes. Thank you very much. And good morning to everyone. May I make a suggestion? I think we should concentrate on GAC consensus advice and GAC advice. And I would suggest, to simplify things, you take out your fourth option. Because this -- you might as well ask the ICANN board to read the transcripts of our discussions. There's no point, in my opinion, of presenting

to the Board -- because it's not advice and it's not consensus advice -- a whole range of opinions on something that is not advice. So I think one simplification would be just to remove the fourth option.

In the case where you have advice that is not consensus, you would then probably want to identify some clarifications. And a group of countries think this and a group -- so I think that will simplify even more the approach, if you agree.

CHAIR SCHNEIDER:

Thank you for your effort. But, actually, this is according to our operating principles. In case there's no agreement at all, we'll convey the range of views. It was talking about consensus. But let's take this in as something to think about.

Norway.

NORWAY:

Yes, thank you, Thomas. Our comments would be also similar in the line of the Commission. Also what other countries have said about the existing consensus, I think we should not try to complicate this and try to simplify it.

So our existing advice that we have operated under, I think that would then fall into this category 2 with a full consensus. And if -

- that's what we normally provide with the advice, but that constitutes a consensus advice. I think we then have to concentrate and focus on what do we do when we do have occasions where there are formal objections? And those kind of advice will then fall into this first category, the GAC advice thing. So -- but, of course, we need to study this document in more detail and to continue discussions. Thank you.

CHAIR SCHNEIDER:

Thank you. So let's stop here and give us a break. And resume in -- how long are these breaks now? They're half an hour, yeah. In the afternoon it's very complicated with transition breaks and other breaks. But a 30-minute break. So let's say five past 11:00. Thank you very much.

[Coffee break]