JOHANNESBURG – GAC Communique Drafting Session (3)
Wednesday, June 28, 2017 – 18:30 to 20:00 JNB
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CHAIR SCHNEIDER: Okay. Can you all sit down and can we have the screen of Tom's computer on the screen? Thank you.

And I think it makes sense, since several people have requested it, that we start with the advice, then we go to the follow-up action of the advice, and then we go to the rest; okay?

All right. So, please, Tom, the floor is yours.

TOM DALE: Thank you, Thomas.

The first section of the (off microphone) dealing with GAC consensus advice is on IGO protections. I'll just move that down so it's on the screen. Now, the first paragraph was not in contention earlier on. With regard to the second paragraph, which starts off, "The GAC noted or expresses concern," I understand that the authors of the text have no strong views on any changes to the -- on any of the alternatives in square brackets there, so you're at liberty to change what you like, basically. As I understand it, there are no strong views on those

particular sets of wording, and the rationale remains unchanged.

So that's the first one.

CHAIR SCHNEIDER: Thank you. So please concentrate on the second paragraph.

Iran.

IRAN: Thank you, Chair. I suggest we take square bracket around "indicated" and delete the other one. Thank you.

CHAIR SCHNEIDER: So your proposal is to delete "foreshadowed" and use "indicated" instead. Is that correct? Yes. Okay.

Do we agree that this is an improvement? Any objections? No. Okay.

What about the top line, the two brackets? Any strong feelings about either of the two?

Iran.

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IRAN: Thank you, Chairman. The issue is more than noted. I think we don't agree to put in "noted." We want to retain "express concern." In fact, it is concern that we express.

CHAIR SCHNEIDER: Any objections to us expressing concern?

I don't see any objection to this. So let's have a look at it the way it looks now.

Any objections or requests for medication -- modification of the -- medication of the middle part?

[ Laughter ]

I had two very hard months behind me. I'm a little tired as you may see, but I do my best until the very end.

Okay. No requests for modifications. All right.

So can we go to the next one?

Tom.

TOM DALE: Thank you, Thomas. The next section dealing with geographic names is unchanged. There was the beginning of discussion but it was postponed until this session. You'll recall that this was the text proposed by Peru, and it is as it was before the break.

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Thank you.

CHAIR SCHNEIDER:        Okay.  I see The Netherlands, then Iran.

NETHERLANDS:            Thank you, Chair.  I just circulated to the whole GAC list a counter-proposal, basically because I'm concerned about retaining positions.  I think for many reasons, it's not a logical way of -- I think the Board has decisions, not positions.  The decisions are always based on proposals.  Proposals can differ.

So I think it's not -- basically not logical to ask the Board to retain its position.

Thirdly, I -- I'm a little bit uncomfortable because it's -- to me, it's really a motion of distrust to the Board, because it's obvious.  If somebody has a position, it has a position.  You don't want to say to somebody, "You retain your position."

So I think I have a counter-proposal, maybe Tom already has it somewhere, which is basically not so different.

TOM DALE:               Certainly.  Yes, it's always good typing from an iPhone to the thing.

I'll read it out first, Thomas.

The new draft would be, "Regarding the use of geographic names in future rounds of new gTLDs, the GAC reiterates its advice and positions as stated in the following documents," and then those would go. I'll put that on the screen now.

CHAIR SCHNEIDER: So this is an alternative text that is proposed. Let's give some time to make it visible on the screen, and then I'll take further comments.

Thank you. Iran, then Denmark.

IRAN: Thank you. We thank you Netherlands but we jumping to the conclusion. Future round is future round, it's not at the beginning. I don't know how wiki we can do something about future round. You're totally changing the sense of the advice.

We can have some changes to the paragraph in black. Instead of "ask" saying "expects that the Board's decision in this regard would not be changed." Expects. But it could not go to the new gTLD. It is just at the very beginning.

The deadline is 2020, not 2017. Why we jump three years ahead? Please participate in the group and say whatever you wish in that group, but not here.

Thank you.

CHAIR SCHNEIDER:    Thank you, Iran.

Denmark.

DENMARK:    Thank you, Mr. Chair. I had a little problem because I cannot see the rationale. There's no rationale. And to follow on what was said, why do we come with this advice now? What do we expect the Board to do? I cannot see that they can do anything within the next couple of years. We got to have the new round and a proposal. So I think this is out of scope for this communique. It might be in two, three years. I don't know.

Thank you.

CHAIR SCHNEIDER:    Thank you.

I have Norway, UK.

NORWAY: Thank you. I think I have to defer with my -- or to say the opposite of my colleague from Denmark. I think that, as we have heard from the discussion we had in the Cross-Community Working Group, it is very valid to show that this has been a process before and to see what the GAC has meant before about the exact same topics as we are discussing now and towards the second round.

So we don't -- as was said, this is no conclusion. This is not -- oh.

(noise in room).

It's not me.

It's not a conclusion and it's not saying what we want the Board to decide on. It's not even saying what we have decided on. It's just to show the history of what has been said and to point to that as respect for what we have said before and the work that's done before.

So I think it is really important. If we don't say anything, it will be very strange, if you consider the participation in the community working group.

Thank you.

CHAIR SCHNEIDER: Thank you, Norway.

UK.


UNITED KINGDOM: Yes, thanks. My comment is similar to that of Denmark. I'm struggling to understand what the intent of this paragraph is vis-a-vis the cross-community discussions, the process that's going on, and vis-a-vis the subsequent procedures PDP.

So -- and I'm uncomfortable with GAC communiques simply reiterating established positions. We should have respect for the Board and for the communique -- community in understanding what GAC positions have been in the past, certainly, but do we need to do this? And as I say, I do not understand what the rationale here exactly and what the intent and effect is expected from it. So I need further advice, clarification.

Thank you.


CHAIR SCHNEIDER: Thank you.

Iran, then the U.S., then Switzerland.


IRAN: Chairman, put that in.

Square bracket, go to the next, and come back to it. Either retain it, modify it, or put it under other titles. Not advice. So let's go to the remaining part. Not to be stuck at. 8:00 is our time limit.

Thank you.

CHAIR SCHNEIDER: Do we agree? Any objection to the proposal from Iran to go through -- What are other elements of advice that we have? Are these the two only items? That's it.

Do you want to continue with this or do you want to leave it for the time being and go to the follow-up actions of previous advice?

What is the sense in the room?

So if I say we continue, any objections apart from Iran?

There's a feeling that we should try and go for it. So U.S., then Switzerland.

UNITED STATES: Thank you. I just wanted to first respond to the comments made by Peru earlier with respect to her interpretation of my previous intervention. I just wanted to make clear, my concerns are not because I am a new GAC member or I haven't -- or I'm not

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familiar with these documents.   My concern is that we're developing advice around documents that aren't clearly articulated why they're being referenced or what they are or what they include, and we have not had any discussion at this meeting.

I am -- I am fine referencing these documents.  I think the text that has been proposed by The Netherlands is something much more acceptable from my perspective, but asking for the Board to retain its positions when I would make a friendly wager, I would be surprised if many people in the room recall what the Board's actions were on these issues.  Maybe they weren't even good.

So I just -- I strongly oppose this request for the Board to do something, also because of the tone involved.

Thank you.


CHAIR SCHNEIDER:          Thank you.

Switzerland.


SWITZERLAND:               Thank you, Chair.  And if I may chime in, into this discussion.  I think that the idea is to recall this very important advice, and I

may understand the -- the opinions that question a little bit whether we should address this at this time to the Board or whether perhaps this should be addressed to the GNSO PDP Working Group, which is working on this, because it's there where this discussion arose.

Perhaps in the future, if the Board is considering this at a later stage, we can put it to the Board directly.

So I see value in recalling all these important documents, but perhaps we could merge it with the paragraph on geographic names that was first developed by Tom following the discussions we had on this.

And just one formal but very important aspect.  Let's always be clear and say that we are talking about the use of geographic names at the top-level domain, not geographic names in general, because we are specifically talking about geo names as top-level domains.

And also not say gTLDs but top-level domains, because geo names cover parts that are gTLDs, probably, and other parts that we, in the past, said shouldn't be gTLDs.

Thank you.

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CHAIR SCHNEIDER:        Thank you, Switzerland.

So if I understand you right, you're proposing to not have this as advice to the Board but to move this section to the other part in the communique where we reflect our discussions on geographic names.  And that would then mean we use the first part, maybe with slight modifications.

So a sense of the proposal of Switzerland to not have this as advice to the Board at this stage but to recall this for everybody. In particular, for the GNSO to take this into account.  That would be the proposal.

Peru and then Iran.


FRANCE:        Can I talk first, Thomas?  Because I wanted to speak, as well, for France.

I just wanted to say I agree with Norway.  I think it's important to have a paragraph about this issue given the cross-community discussions.

I also agree with the proposal by Netherlands.  I think it brings more clarity to the paragraph.  I think we should retain this proposal.  And then regarding the proposal by Switzerland, I

think I can also live with it but put it in a different place in the communique. I think it's a good idea.

Thanks.

CHAIR SCHNEIDER: Thank you.

Peru.

PERU: I think that the proposal made by The Netherlands is good except for the fact that it mentions gTLDs. That could be replaced by the -- what Jorge has mentioned, the top level.

I -- The only point where I disagree is changing the place of this proposal. I believe that it is an advice and that it should remain where it is. Otherwise, I agree with -- with the modifications proposed.

Thank you.

CHAIR SCHNEIDER: So this would how it would read -- would be how it would read.

Iran.

IRAN: Thank you, Chair. The title of this section is "GAC Consensus Advice," which I suggest if we have any advice consensus, we should put "full consensus advice" because otherwise will be dropped by some board member.

However, I don't think that at this stage, even if everybody agree as a full consensus advice, the Board will take as advice. This has not yet been developed. Wait until it's developed or send it to the GNSO.

But in any case, we could put it under "other considerations," and we say that the GAC recalls that, and add something which need to be taken into account in the future, and so on, so forth, as other consideration, but not GAC full consensus advice, because it is not advice.

The reason is that the issue is under the development, and you could not say that do it now. The GAC says -- the Board says, "What? What you talking about? I have received no PDP from the GNSO yet. So what can I do with that?"

So let us not destroy the remaining part of the advice by something that will be immediately criticized by some of the board members if not by all.

Thank you.

CHAIR SCHNEIDER:    Thank you.

Well, basically we can give advice at any time on anything. The question is what is the expected action to an advice. And it may be that -- yeah, there's no action that the Board can take now on this piece of advice.

I see Jamaica has asked for the floor, and then Norway, the U.S. and The Netherlands.

JAMAICA:    I tend to agree with --

CHAIR SCHNEIDER:    And Denmark

JAMAICA:    Sorry. Jamaica. Wahkeen.

I agree with colleagues who have expressed the view that this isn't advice. What essentially we're asking the Board to do as an advice is to recall something, which really isn't -- I mean, we're advising someone to recall. So --

CHAIR SCHNEIDER: No; we are recalling ourselves. We don't even advise the Board to. We are recalling.

JAMAICA: Exactly. So I would support for the recommendation for it to be moved, and I agree that this isn't advice, because all we're asking them to do is to recall something.

CHAIR SCHNEIDER: So can we have a quick look at removing this -- or not "removing" -- moving this, I'm sorry, to the other section? So let's have a quick look at the other section.

Tom, I -- do you know where -- which --

UNKNOWN SPEAKER: (Off microphone.)

CHAIR SCHNEIDER: Okay. He does, so let's quickly see how this would look like and then we see here...

So what is the -- the heading of that section? This is "Follow-up of Previous Action, Advice, and Other Issues." That would make sense in the sense this is previous advice, so, okay, let's have a look at the concrete setting.

Okay. What are we saying? We are expressing some views for the process, and at the same time we are recalling previous advice. That may make sense, if I'm allowed to say that.

Any views?

U.S., then Switzerland.

UNITED STATES:    In an effort to be constructive, I might actually recommend that an addition to this may be just adding in here somewhere that the purpose of this is for the community to consider, so at least it's -- it's something beyond us just recalling.

CHAIR SCHNEIDER:    So I have Norway and then Switzerland.

NORWAY:    I'm very happy with the moving, the way we have done it now. I think it's better, so I agree. It's not advice but I think it is, as I said before, very valid.

And also, in respect of being early on in the process, helping the process, being constructive, and being a part of the process that we have now started with the community discussions, I think it is worth mentioning.

So I think this is very good.  Thank you.

CHAIR SCHNEIDER:        Thank you.  Switzerland?

SWITZERLAND:            Thank you.  I just wanted to mention that I had circulated similar text to the list, but I see it's covered.  I see very much value in the proposal made by Ashley.  The only thing I would add is that on the title of this section, we put -- we specify that this is geographic names as top-level domains.

CHAIR SCHNEIDER:        And can we delete the first bracket in the red part because I don't think that we will keep this for -- Iran?

IRAN:                   Chairman, I don't agree with the proposal to asking the community to reflect on our previous advice.  You're totally against the bylaw.  They are two different approaches.  I don't think that we should mix them up.  We ask the community to take into account our advice?  What does it mean?  Our advice goes to the board.  So I totally disagree with the modification made by some other people and I suggest that we delete that

modification, we retain the text in one way or other, and put it under, "Other Considerations" but not "GAC Advice."

No problem to put it "recalls," but "Other Consideration," and not "Follow-Up Action" because with the new wording, it also not appropriate to ask that GNSO consider our advice. So we try to authorize GNSO, putting in present and future, any advice that goes from us directly to the board should go to the Council of the GNSO. Please kindly do not put such dangerous precedents. Thank you.

CHAIR SCHNEIDER:          Thank you. So we have deleted the addition. So what the text now says -- and tell me if you can scroll, maybe, back that we see the upper part.

As I said before, this is under the section of "Follow-Up to Previous Advice."

We give some indications about what we consider is important and we recall previous advice, full stop.

Can we live with that? Is there any problem with this, the way it is now?

Or can we wait and see until we see -- can we leave it for the time being and then have a final -- after a little bit of settling, look at it at a later stage?

But the logic, if I get it right, is that we say that we have participated in a cross-community discussion, we give some elements that are important for us for future processes, and at the same time we recall previous advice. This is what we are doing.

I see people nodding.

Any strong feelings in terms of not liking this? I don't see this, so let's take this as agreed. Okay. Thank you.

So that would mean that we can move on and get closer to finalizing it. Thank you.

So we go back to -- do we have -- we have no left -- nothing left on the advice section?

UNKNOWN SPEAKER          (Off microphone.)

CHAIR SCHNEIDER:         We've got one left? Okay. Let's go to the advice section.

TOM DALE:                    We've got plenty left, if you wish, Thomas.  The --

CHAIR SCHNEIDER:            No, I do not wish this.

TOM DALE:                    I know.  Okay.  I -- my recollection of the discussion before the break was that we had not quite finalized the wording on two-character country and territory codes at the second level.

UNKNOWN SPEAKER:           (Off microphone.)

TOM DALE:                    No, no, this is not advice that -- I'm not mentioning GAC advice to the board at all again this evening.  That's done.

CHAIR SCHNEIDER:            Yeah.  That was my question.  So we have not -- the advice is done.

TOM DALE:                    Yes, yes, it is.  Yes.  Sorry.

CHAIR SCHNEIDER:    Sorry.  Then it was a misunderstanding.

TOM DALE:    My apologies if I was unclear.  I'm sorry.

No, this is still in the section called "Follow-Up and Other Issues," so -- and this is where it was before the break and the wording is still as -- as is on the screen, but my recollection was that the GAC had not reached final agreement on all of that wording.

Please correct me if I'm wrong.  Thank you.

CHAIR SCHNEIDER:    Are there any comments on what you see on the screen?

Iran, Hungary, Brazil is what I see for the time being.  Argentina.  New Zealand.  Okay.  Let's stop here and see what that gives.

Iran, please.

IRAN:    Thank you, Chairman.   In formal discussion with Hungary, perhaps if he retains what he told to me that he is not against using the word "support."   Not "endorse," not "take note," something between the two.  So I don't agree with the "take

note." I know what the "take note" means. So I don't agree with that.

"Endorse," maybe (indiscernible) put "supports." Thank you.

CHAIR SCHNEIDER: So "support" would replace the two alternatives, "endorses" or take "note of."

Hungary, is that what you were going to propose?

HUNGARY: Yeah, I support "supports."

CHAIR SCHNEIDER: That makes sense. Okay. Next in line, ticking off the two of you, is Brazil.

BRAZIL: Thank you. I was going to comment also to -- in that regard. I think "endorse" would not be the appropriate expression here because I think to my understanding, "endorse" is -- implies that we would be maybe in the same structure and at a higher level so we are endorsing something that was done at a lower level below, so I don't think it should work here.

What I would prefer to see is "welcomes." "Welcomes a decision made by the ICANN board" so, so, so. And -- so -- but I can go along with "support," if this is the preference of the room.

And then the second part, I would say we should welcome or take note of the announcement that was made by the president, because I think at this point what we have is the announcement that was made in this room that he would consider or that he would -- the announcement made by the president and CEO of his intention to create a task force. Something like that. Because I think that would reflect exactly the situation that we are in. It's -- I think it's not an initiative that we can clearly see that we can relate to in written form. It was an announcement that he made of his intention to create a task force.

So that's how I would see maybe -- propose that that would be reflected in letter (b). So that would be "Welcomes the announcement by the president and CEO of ICANN to create" -- of his intention" because we do not have something mature in front of us. So we are welcoming what -- that's what I propose. Thank you.

CHAIR SCHNEIDER: Thank you. I personally would actually also rather welcome the welcoming than supporting the support, but that's just my personal preference.

So Brazil, if you could repeat what your proposal is for the (b) part, or whether we have captured it correctly.

BRAZIL: So wel- -- I think "Welcomes the announcement made by the president," I think, "and" -- no. I -- and then we have -- yes, "and CEO of ICANN of his intention" -- yes, I think the rest is okay. Thank you. Thank you.

CHAIR SCHNEIDER: So no "takes notes of." Just we remain with welcoming (a) and welcoming (b)?

I have Argentina and then New Zealand and then Iran.

ARGENTINA: Thank you, Chair. "Takes note" is not a language that we would like to be in the text. We think it's too weak. That's it.

CHAIR SCHNEIDER: Thank you. New Zealand?

NEW ZEALAND: Thank you, Chair. I just wanted to clarify what exactly the board had directed the CEO to do. If I -- I looked back at the board response to the communique and it's about explaining the

board's actions, not necessarily resolving the disputes. I'll read out the exact wording. "Accordingly, the board has directed the CEO to engage with concerned governments to listen to their views and concerns and further explain the board's decision-making processes."

CHAIR SCHNEIDER:     Thank you, but that was a step earlier. That was the -- the board's decision to tell the CEO to engage.

At this engagement -- i.e., the two phone calls -- this is what happened, if I'm getting the logic -- sequence right. So we are referencing something that has come later than what you're referring to.

Can we live with this? I have Iran and the U.K.

IRAN:                         Thank you, Chairman. The second part, I have no problem. It's good. But the second -- first paragraph, I suggest that if people want to retain "welcome," we add "and appreciate the decision" and delete "support," delete "take note of." "Welcome and appreciate decision taken by the board."

CHAIR SCHNEIDER:     What is the difference between "welcome" and "appreciate"?

IRAN:                          It's two different.  "Welcome" is "okay, thank you very much," but we also appreciate, "we thank you very much for the decision."  This is different.

CHAIR SCHNEIDER:               Okay.

IRAN:                          "Welcome" and "appreciate."

CHAIR SCHNEIDER:               Any problems with "welcome and appreciate"?  No.

Can we go with this?  U.K.?

UNITED KINGDOM:                Well, there was a sort of nuance there about appreciation, but I was going to just put welcomes in the chapeau introduction.  "The GAC welcomes (a) decision, (b) the announcement. "

My main point is with regard to the last sentence of (b).  I would propose changing "suggest" to "proposes."

CHAIR SCHNEIDER:      Actually, we haven't taken a decision whether or not this sentence stays in.  Maybe we need to get that done first.

UNITED KINGDOM:       Well, my advice is -- my comment is to include this sentence --

CHAIR SCHNEIDER:      Okay.

UNITED KINGDOM:       -- as a commitment to follow on the welcoming with participation inherent in the decision to consult us and so on.  Thank you.

CHAIR SCHNEIDER:      Thank you.  Maybe if you just could quickly -- yeah.

Okay.  So we are fine with the first paragraph with "welcomes" and -- what was it? --  "appreciates," and we are now looking at the second one where everybody seems to be fine with the first part until the brackets.

We are now just looking at the brackets.  We have a suggestion from U.K. to say "proposes" instead of "suggests."  Any objections?

Iran?

UNITED KINGDOM:        And take out "need to."   "Proposes that the mandate and working methods of the above-mentioned task force be determined in consultation."

CHAIR SCHNEIDER:       So this is how it looks after the proposal of the U.K.

Iran, can you accept this?

IRAN:                  Yes.  It is a good proposal because in advice we should not have "suggest," "request," "invite."  "Proposes" is better, but thank you, U.K.

CHAIR SCHNEIDER:       European Commission?

EUROPEAN COMMISSION:   Thank you, Chair.  I'm not going to suggest any changes.  I just would like to note for the record that what is written here is extremely positive, I think.  While in the discussions that I heard in the meeting, I heard some governments saying that what has happened could even be seen as breaking the multistakeholder model.

So I just -- I'm just noting this.  And here, I see very, very positive language, so I just wanted to say this for the record.

CHAIR SCHNEIDER:    Thank you, European Commission.  That has triggered another -- Brazil.

BRAZIL:    No, no.  No, it's not in relation to what the European Commission has just stated.  I fully concur with her.

But my point is:  Do we need the last two words, "when required"?  What is the purpose of having those two words here?  I think we should just propose that the mandate be determined in consultation with other interested parties, full stop.  That's what we need.  Why do we need "when required"?  Maybe I need some clarification here.

CHAIR SCHNEIDER:    You may have a point there.  Any objection to deleting "when required"? Iran?

IRAN:    No objections because if we retain "when required," that means somebody should decide and it is difficult, so take it out.  Thank you.

CHAIR SCHNEIDER:     Thank you.  So can we have a look at the whole text again, maybe?

So what does it say?

Is that okay?

It refers to the Copenhagen advice and then -- okay?  All right.  Iran.


IRAN:     Yeah.  Please, could you go to the title of this section?  No, a little bit -- scroll -- yeah.  "Follow-Up Action."  Okay.  I think the main title of this should be "GAC Full Consensus Advice."  I suggest that we retain --


CHAIR SCHNEIDER:     This is not in the advice section.


IRAN:     No, no.  Which section is it?  Okay.


CHAIR SCHNEIDER:     It's in the follow-up --

IRAN:                          Okay.

CHAIR SCHNEIDER:               -- on previous advice that you introduced.

IRAN:                          No problem.

CHAIR SCHNEIDER:               Thank you.

IRAN:                          Okay.  Good.

CHAIR SCHNEIDER:               Okay.  Can we go with this text?

                               Seems to be no objection, so that's accepted.

                               Next one.

                               I've seen just in the transcript that Chris Disspain also agrees.
                               That helps?   That helps.   Can somebody inform him that he
                               agrees?

                               This is the last bit, if I'm not wrong, of the follow-up -- of this
                               section, "Follow-Up to Previous Advice and Other Issues," where

we express our sentiments of -- about inclusive and meaningful engagement.

Now that we've had the session before, that I think helps us also to understand the relevance of this.

Tom, did you do any modification or why do we have parts in yellow?

TOM DALE: Those were some minor suggestions -- I think the term used with -- the term of art used was "tweaks" -- suggested by our colleague from Switzerland. Thank you.

CHAIR SCHNEIDER: Okay. Any problems with these tweaks? Yes.

CHILE: Luis from Chile. Sorry about my voice.

I made some suggestions by email regarding this, because as you can see, we have two different set of problems here. Structural problems and something that are more like work organization.

Regarding the structural problems, I think we have a weakness. We are not saying something specific, and that has to do with,

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for example, what the European Commission just said.  We have a feeling that something is not working very well and we should say it in a way that it makes sense.

Maybe we should say something like "Regarding the structural issues, we would like to continue looking at ways of strengthening the multistakeholder model" or something like that, but we have to find a way of giving a clear statement on that because the rest is very clear.  And we should also say that.  But as the way it is now, we are not including a strong message about what we have as a feeling of the structure of situation of the way that we are working as a group.  Thank you.

CHAIR SCHNEIDER:      Thank you.  If I get your point right, then what we may think about is expressed as a feeling, if this is a shared feeling, that this structural problem may lead to consideration of further reform of the system or something.  I don't know whether we want to go that far.  But I think some people have the feeling that something needs to be done about this structural problem.

The question is:  Do you -- or let me put it that way.  Do you agree with the proposal by Chile to make it a little bit more specific with regard to what would need to be done to solve that structural problem?

Iran and then Brazil.

IRAN: Thank you, Chair. We may do this step by step. I would suggest in -- one, two, three, four, five -- fifth line, lack of and so on and so forth, up to "development," we delete that because we could not say there is a lack of something. We maybe judge that there are some. So, perhaps, if colleague agree, by shortening that, you delete that portion after the bylaw, "in the bylaw," full stop. And then, "And the lack of up to date," and then the other challenges, we try to also shorten that.

But what we want to see in this paragraph, that participation in the PDP is not mandate for us. It is not mandatory for us. There is options. And it does not replace the specific channel of advice. So we may not participate at all. We just provide advice. So we should not be saying -- be told by some people that we didn't participate that, that is that and we should accept the recommendation. No, we wouldn't say that.

So second paragraph, big paragraph, after "other challenges" may be shortened in order to have a better shortened and more flexible reflection of the issue. I leave it to the authors. If possible, they can to shorten that paragraph. But it is important to retain the issue. Thank you.

CHAIR SCHNEIDER:          Brazil and then U.K.


BRAZIL:                   Thank you, Thomas.   And I'd like to beg the colleagues'
                          indulgence because I want to propose some more extensive
                          amendments to these because -- in order to reflect exactly what
                          is at least our thinking and, of course, this is submitted to
                          colleagues' considerations.

                          So my proposal be in the first sentence after "policy
                          development work," to add -- so we put a comma here after
                          "work," and we -- I suggest we could say, "which tends to be
                          seen" -- I read the entire thing at dictation speed, "which tends
                          to be seen by the board as the authoritative input that should
                          guide its decisions."  So "which tends to be seen by the board as
                          the authoritative input that should guide its decisions."

                          I think this is the heart of the problem that we face.  So I think
                          these developed in two different ways.

                          So I would suggest to say "some of the structural" -- "some of
                          these are structural" -- "some of these may be challenges"
                          because "challenges" now is far away.   "So some of these
                          challenges," we add "challenges," "are structural and relate, on
                          the one hand to the way and timing GAC's advice provided in the

context."   So there's some repetition we can maybe improve later.  "Of the GAC's specific advisory role to the board," "specific advisory role to the board is given and processed, and on the other hand" -- and then I suggest retain "on the one hand, to" -- so "on the other hand, to" and we keep "the lack of a specific mandate and adequate structures and resources to participate in earlier phases."

So basically I think we should -- the message is that we face challenges to make our views known and to influence the process in the light of the fact that the input that is, I think -- I'm saying this on the basis of what we have been seeing recently.  And the board has even said that to us today, that the board considers as the authoritative input the policy development processes.

So we have a problem because our advisory role, the timing and the way it's processed does not help in that regard.  And, on the other hand, because we are not tasked and they have got no structures or mandate to participate in the policy development process directly.  So I think with these amendments, I would say we would cover everything and would send a very strong -- at this point, I don't -- I concur with Chile.  There are those two aspects.  But I'm not sure if we are in a position now to propose some recommendations.  I think we should state the situation very   clearly.     If   colleagues   can   come   up   with   some

recommendation, but I think that we are flagging a situation that needs some reflection that might lead even to the structural changes. But at this point, I think it would be maybe premature to advance those. Thank you.

CHAIR SCHNEIDER: Thank you. I'm going to reread this because that may be a little difficult. We tried to put the previous version in brackets, so that may help. So, "The GAC expressed concerns to the board and other parts of the community that there are increasing challenges to effective and meaningful GAC participation in a range of ICANN activities, including important public policy development work which tends to be seen by the board as the authoritative input that should guide its decisions. Some of these challenges are structural and relate on the one hand to the way and timing GAC's advice provided" -- maybe "of -- "of GAC's advice provided in the context of the GAC's specific advisory role to the board is given" -- yeah -- "and processed. And, on the other hand, to the lack of a specific input and of adequate structures and resources to participate in earlier phases of policy development."

I have the U.K. and Switzerland.

UNITED KINGDOM: Yes, thank you very much. I have got two points.

Firstly, with regard to this text addition proposed by Brazil, appreciate that. But I just -- clearly the phrasing "tends to be seen by the board," you know, we have the bottom-up model here, which is policy is developed mainly by the GNSO, occasionally by the ccNSO as we've seen, very rarely. And then the board receives that and then it acts on that policy development process bottom up from the stakeholders.

So I -- I just feel this phrase "tends to be seen" as cutting across what is established, bottom-up, multistakeholder process.

My second point is the reference to "lack of adequate structures." I'm not sure what the intention here. But, of course, we will recall that we've worked a lot with the GNSO on how to work transversely, how to engage in policy development at an early stage. We had a GNSO/GAC team developing that whole approach to early engagement. That produced mechanisms like the quick-look mechanism and so on and the role of the liaison in facilitating interaction between the GAC -- GAC representatives who are able to participate in policy development process and how that then creates the framework for the GNSO to engage constructively and inclusively with the GAC.

So we've -- you know, we do have new mechanisms. Agreed it's betting down and we need to ensure that GAC representatives are able to resource themselves in order to participate in policy development processes. But if this is calling for development of new structures and so on, this is overriding what we have worked out with the GNSO.

And the principal sort of locust for enhancing our ability to participate is with the GNSO processes and with the help of the liaisons. So I just flag that as a risk with that language about inadequate structures. Thanks.

CHAIR SCHNEIDER:          Thank you. Switzerland.

SWITZERLAND:              Thank you, Chair.

Maybe with some of this wording we are touching upon some very key elements of how ICANN is structured. And I would be very reluctant to imply in any of this wording that the policy development work is something that is done by the SOs.

I completely disagree with that view because we have a commitment which was largely and extensively discussed during the reform of ICANN and its bylaws where it says clearly that the

commitment of ICANN is to encourage open, transparent, and bottom-up multistakeholder policy development processes that are led by the private sector while duly taking into account the public policy advice of governments and public authorities.

That is a commitment that's the highest level in the bylaws of ICANN. So my understanding is that policy development work is something that comprises the recommendations because they are recommendations from the supporting organizations and also the input that sometimes takes the form of advice from the governments represented in the GAC.

So I think we should make that clear. And any wording we agree here, that maybe we are referring here to activities including important policy development work performed by the SOs, blah, blah, blah, blah, blah. What we should in no case accept or imply is that we are not part of the policy development work.

A different issue is that the structures for really taking part from the very beginning in that policy development work are still in development. We have some with the early warning. We have some with the recommendations from the joint consultation group between the GAC and the GNSO. But it's true -- and that's what we are being confronted -- that in the bylaws themselves, our role apart from this general principle in the commitments seems to be still focused on the advice to the board, which

creates this kind of disconnect between what is the multistakeholder approach and the specific role of the GAC vis-a-vis the board.  So I hope that I have expressed myself clearly.  It is very late in the evening, but it's a really key issue I wanted to highlight.  Thank you.

CHAIR SCHNEIDER:    To try and cut the story short, if we go back to the old text without the additions of Brazil, what we are saying is that there is a -- I'm trying to find it -- a structural challenge that is -- that derives from the GAC's specific advisory role as set out in the bylaws and the lack of a specific mandate and not structures at all but adequate structures and resources to participate in earlier phases of the policy development process.  May that be something that we can actually leave as -- as it was before the intervention of Brazil.  I -- are you from Guyana?

GUYANA:    Guyana.  Sorry, Chair.  Really I was going to raise similar issues raised by the previous speakers.  I just wondered if anything in particular triggered that kind of language, whether there's an experience or whether -- why we're committing to a specific principle, whether it doesn't work to a point that could generate that kind of -- that kind of text.  I was just curious about that.

CHAIR SCHNEIDER: Thank you. I think the Brazilian proposal was trying to be more explicit about where the problems lie. But we -- I assume that this will not be the last time that we express ourself on this issue. So for the sake of introducing it, I think it may be enough to leave it. But I have Canada and Iran and Egypt, yes, and Brazil. Canada, please.

CANADA: Thank you very much, Mr. Chairman. And thank you to our Brazilian colleagues for this proposal. We can certainly appreciate if this text reflects Brazil's experience with respect to challenges and constraints. However, I don't think we've -- I'm sorry, I think there's an echo. Mark, I think --

CHAIR SCHNEIDER: Go on.

CANADA: Thank you. I was just going to say, however, I don't think the GAC as a whole has embarked on an exercise to really identify and attribute challenges in the same way that we're doing here, and we would be supportive of having that discussion, as well as further analysis to identify challenges and constraints based on -

- based on GAC members' experiences.  But I don't think we're comfortable at this stage attributing challenges to the GAC's advisory role.

I also want to note, I think in line with what Switzerland has said, that the GAC does -- Canada does participate in ICANN's multistakeholder policy development processes.  It just doesn't lead those processes in the context of ICANN.  And if I could just also ask, given that this text is in the follow-up to GAC advice section, if I could just also seek clarification on which previous advice it applies to.  Thank you.

CHAIR SCHNEIDER:    Thank you.  To answer your last question, it was under the follow-up action on previous advice and other issues section.  Iran.

IRAN:    Thank you, Chair.  Could Tom kindly take the first part of the text, just -- don't touch that.  Produce another text as alternative and kindly take the first part, "the GAC expresses concerns to the board" up to the ''activities including important policy development work,'' take that portion kindly and copy it down to a new paragraph.  And then continue that "arising with policy development being carried out in multiple" -- take the portion of

"multiple group" somewhere in the text, "then increasing" -- okay. (indiscernible)among the other -- yeah. And the provision of -- and work, (indiscernible). Go to the text of -- okay. That is okay. Scroll down, please -- or up. Yeah. Take another part of that. Starting with "work currently" -- "currently being carried out," "currently being carried out." "Currently." C. Yes, "carried out in multiple working groups." And then go to the last part of the old text starting that "big challenges." Say in the hand of -- okay. Wait a minute. "In setting the priorities, this is a view increasing" -- yeah. "Which becoming inclusively of ICANN" and it -- take this part. This is a GAC views. Take that part and put it -- this part at the end of that and try to put it together. So that last up to the end, please. Up to the end of the whole paragraph. From this up to "the participation." The whole paragraph, kindly. Yeah. Copy and paste it at the end of that and try to remove some of the inconsistencies between grammatical (indiscernible) and say this one. So what we are saying, that we express our concerns about this increasing number of the development group which make it difficult for the GAC to participate and to become effective. "So GAC express concerns to the board and other part of the ICANN community that there are increasing challenges to effective and meaningful GAC participation in the arena of ICANN activities, including important policy development work currently being carried out in multiple working group." And then "becoming" -- delete, this

is a GAC views, "becoming a" -- "become an element for importance." So we tried to take some of the element which is in parallel -- yeah, yeah. Use "becoming elements increasingly," and take -- "becoming increasingly" -- yeah. "Challenge" and then take the part "putting or setting priorities among the different work streams." Delete the rest to the "inclusively ICANN and processes element for improvement of the situation," up to "could be setting." Yeah. That also. Delete that portion. And now read the paragraph to see which are the words that could be deleted that paragraph has a meaning.

CHAIR SCHNEIDER:        Excuse me, looking at people's heads, I think we're not getting anywhere. Let me make a proposal and then we'll see -- I would go back to the old text as it was when we started to look at it because that -- I thought that more or less captured what we were trying to say, so let's give this a try. Delete all the additions that are now in red. Can we try and go for -- start from this one and maybe that does not need that much -- I see Brazil. Yes. Please, go ahead.

BRAZIL:        Yes, I was exactly going to say, because I made the proposal, you interpret correctly, trying to put some more detail on the concerns we have. But I think in the light of the discussions, I

think there was some unintended issues that were -- arise, so we will be happy to revert to the previous language. With some -- and propose in trying to respond to some of the issues that were raised here, I think on the basis of that previous language we would -- if I can just without the "GAC express concern to the board and other parts of the ICANN community that there are increasing challenges to effective and meaningful GAC participation in a range of ICANN activities, including important policy development work," I agree with Jorge. This, I think, we should not differentiate the PDPs, try to put some more complex. I think it's enough. And then some of these structural -- some of these challenges like structural derive from the GAC's specific advisory role to the board, and I think reacting to what Mark has said, we should not say the lack of specific mandate and adequate structures but maybe refer to the sufficiency or to in -- inadequate ability. I don't know. To GAC. Let's say there are not a specific mandate but there are structures and ways but they are not adjusted to the GAC's participation. Maybe we should -- I look for Mark for some help in that regard.

But after we finish and we referred to these, I would suggest we stop this paragraph, and the second part would be another completely different paragraph. The reason being is that we have indicated two sets of problems. One is that our advisory role is to provide advice, this is required -- what is required from

GAC. And I think the main problem is that this advice is not working the way it should. It's not influencing the process and not being processed by the board in the way it should and this leaves the -- the GAC without a say in the process. We are not mandated. The second part relates to participation in the process. In the development -- we are not mandated to this. It's welcomed that we should participate, but I think everything that follows refer to the second part, not to the first part. We are not saying anything or proposing anything in regard to how to address the -- I think the main challenge is that the GAC advice is not being embedded in the process in a way that is significant. So that's why I suggest retain the -- everything that is in the second but to differentiate because it refers only to part of what we have said before that we are referring to the issues.

So again, I think we need some language that would replace the reference to the lack of mandate and adequate. Maybe Mark can come up with something or someone else. Otherwise, we would be satisfied with the text as it is. Thank you.

CHAIR SCHNEIDER: Thank you. It's 8 minutes before 8:00, just to let you know this. I have Egypt then the USA and then Iran. Thank you.

| EGYPT: | Actually rephrasing the sentence that Brazil already referred to would address my concern probably because I was -- I shared the U.K. concern regarding the lack of structure to participate in earlier phases because we were already working on.  So if -- if there is an exercise to work on this drafting, I'm happy to help with it, and this would address my concern. |
| --- | --- |
| | I have just minor suggestion to the sentence that -- in the second paragraph, second sentence that starts with "this is in the GAC's view."  I suggest that we, for a better reading only, this, comma, in the GAC's view, comma, is increasingly becoming a challenge.  This, comma, and delete "is" from here.  Yes.  Is increasingly -- so if -- if it reads better, okay.  Otherwise, I don't have a strong position.  Thank you. |
| CHAIR SCHNEIDER: | Thank you.  Just, I think, it does not say "lack of structures."  The text says "lack of adequate structures."  And I think that may reflect the fact that we keep complaining that we can't participate in this. |
| | Next is United States and then Iran. |
| UNITED STATES: | Thank you.  I wanted to follow up on what I believe Canada's comments were alluding to, which is concern over this reference |

to GAC's specific advisory role.  I'm fairly confident it wasn't the intent, but my concern is by referencing this language this way, it's going to be read by the community as the GAC challenging its current role and perhaps trying to expand it, and I don't believe that is the intent here.  I might recommend as a way to address that concern is in that sentence that becomes with "some of these are structural" delete "and derived from the GAC's specific advisory role to the board set out in the bylaws" and then continue on as being discussed.  Thank you.

CHAIR SCHNEIDER:    So what exactly would you like to see deleted?  Could you repeat it?

Ah, the -- this what is in the brackets.  Okay.

Iran -- Brazil and then Iran.

BRAZIL:    Just a quick comment on this.  I think both Canada and U.S., they are right.  We should not send a message that we are not satisfied with the specific advisory role set out in the by- --  That would be read as if we want to change it.

That's why my proposal I refer to the way these advisory has been exerted, the timing and the way it's being processed.

That's why I was trying to put some more clarity here, is just to avoid.

So I think just by deleting it, we are also taking away, I think, a major concern. Maybe we should find the right way to express it in a way that is not misinterpreted by others, but not, I think -- again, I do not like to revert my language, but I think if we refer to this, we need some more clarity. Some more language not to leave room for erroneous interpretations.

Thank you.

CHAIR SCHNEIDER:    Okay. So we would delete what is in brackets now, and then see how it reads. So maybe we ask Tom to delete this. Some of these are structural.

And this is actually a fact. We have no mandate, according to the bylaws, to participate in earlier phases of the policy development. In early phases. The question is is that okay?

Next is CTU, and then the UK.

CTU:    Thank you. Now that we have separated it into two paragraphs, the second para begins, "Other challenges includes" and then

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the sentence that was just changed. This, in the GAC's view, is increasingly becoming a challenge.

My question was whether it's only the other challenges becoming a challenge to the inclusivity or the first -- or the things from the first paragraph as well? So that's the question.

CHAIR SCHNEIDER: You have a point there. That would actually spoke for putting it together again.

Iran and then the UK.

IRAN: Thank you, Chair.

Perhaps I start with the second paragraph. Could we delete these things from the third or fourth line, this is in the GAC views. Because the first part said whatever you want it to say. Other challenges include the amount of multiple. So we don't need the whole things up to the end maybe. Put in square bracket for deletion, perhaps, and just retain the first part. Everything up to "down," yeah. So we have that.

And symptom the first part, the sentence is not correct, "are essential and derives from." From what? From lack of

inadequate?  So we have to select lack of specific mandate or lack of inadequate structural and resources.

So we have to modify the language.  After "derived from," from what?  From lack of inadequate structure and resources, and delete "specific mandate," or you want to take any of the two, but not both.

CHAIR SCHNEIDER:        Thank you.

Remember we just had a session where we concluded we should set priorities and we should do some more things, so if you want to delete this, we are losing the whole 90 minutes of that discussion, just for your reflection.

UK.

UNITED KINGDOM:         Thanks.  I think when people read this, they will want to understand what do we mean by structural challenges and where resources are coming from.  I mean, on structural challenges, when I brief people within my administration within ICANN, I talk about ICANN now having moved into a new era, really, which includes changes in how the GAC interacts with the community.

We have these cross-community processes, working groups and dialogues as we're seeing here in Johannesburg. So GAC has the opportunity to engage in those. And then we also have the transversal working agreed with the GNSO which I talked about before in my earlier intervention. The mechanisms that we agreed with the GNSO, the quick-look mechanism, issue support, reporting through the liaison and opportunities being flagged for the GAC to react to emerging public interest issues as policy development progresses.

So maybe -- maybe I need clarification here. What do we mean by "structural challenges"? And when we talk about resources to participate, are we looking to ICANN to provide resources or are we talking about resources within our administrations? I mean, that is an enormous challenge, as we are all well aware.

So I'm -- I think we will get questions about this, what exactly we mean.

Thanks.

CHAIR SCHNEIDER: Maybe given the time, let me try and make a proposal that may help. If we would leave out the part about the lack of mandate and the resources, and so on, and just say, "That are increasing challenges to effective and meaningful participation in the GAC,

in a range of views including important development -- policy development work."  And then say, "These challenges include the amount of --" and just then have the rest of the paragraph.

So delete all of this, and then continue here.  "These which is include."  Just replace the other by this.  Just delete "the other."

So we don't have two sets of challenges, the structural one and the workload one.  We only refer to the workload challenge for the time being and leave the rest, the structural one, aside because -- Would that help us agreeing on this text?

I see some people nodding.

Brazil and then Iran.


BRAZIL:                        Thank you, Thomas.  I thank you for the proposal, and I think in the light of the differences of, let's say, (indiscernible) we have been (indiscernible), maybe that might be the one that will satisfy and achieve consensus among us.

In our view, this is somewhat insufficient because I think we addressing here extensively ways through which we can enhance participation in these policy development processes, and this is something we should do, of course, but this is not the main aspect of concern.  This is not something we are mandated

for, and the -- and we know that the nature of participation of government in those processes will not match the -- We have heard previously that all the -- the other ACs and SOs, they complain, they have the same complaint of difficulties for finding people to participate. But the asymmetry in regard to the GAC is dismal because we -- we know that we don't have people, except for maybe one or two exceptions, that can dedicate themselves to the process.

We have not the same interest, and I think even the GAC board, the CEO was very clear to say that ICANN is driven also by money. That's what he said; it's not what I'm saying. So the economic interest that is driving is not the one that guides us.

So of course if we look for ways to increase our participation in those PDPs, it is something worthwhile to do, but we cannot have the expectation that by doing it, we would -- it would be sufficient to express adequately the participation. First of all, those would be individual participations without the necessary, in many case, background and skills and time. So it will not be -- It may -- even if we have increased participation, I think this will not mean that the GAC is fully participating on a par with the other groups in the ICANN.

So in my opinion, the main concern would be to make sure that the institutional way we have to participate in the advice will

fulfill and will be addressed and processed in a way that would imply with our participation in a meaningful way. And I think this is the main issue of contention or the main concern for us.

So I think if we -- I think if we say that these challenges includes the amount of work and we should do that, I think this is fair. It's part of -- it's not, maybe, the main aspect we want to address, but I think it's the common denominator. We can't find them all ourselves. I think we need to have some more extensive -- as I said, I think the discussion among us is not mature enough for us to have some common language addressing other aspects.

So I would, in short, agree to your proposal, Thomas. I think we could delete the second part of paragraph one and retain paragraph two. In our view it is sufficient. It does not reflect the discussion we had. We address one part of the problem, but if it is the -- what can be agreed among us, so be it.

And this does not impede that we will further reflect and at a later stage come up with something more refined with regard to the other areas of concern.

Thank you.

CHAIR SCHNEIDER:        Thank you, Brazil. So you would be, for the sake of compromise and having us leave this room at some point in time before all

the food is gone, be ready to let go the part that is now in brackets if that would solve the problem for all the others.

Can we try and agree on what Brazil has now accepted?

Iran, can we go with this?

IRAN:                          Yes.  With deleting everything in the square bracket, yes.  And making two sentences.  Yeah.  I have no problem to say "other challenges."  Because in fact it's not "the."  It's other challenges.

CHAIR SCHNEIDER:              But if we delete that we would need to refer to the challenges and say "these challenges include."  There may be others that we have no -- no time to mention, but the logic would then imply --

UNKNOWN SPEAKER:             (Off microphone).

CHAIR SCHNEIDER:              So let's delete -- let's delete what is now marked.  Delete the "other."  Take off the brackets.  And then I don't think we need two paragraphs because it's actually shorter so I think we can

delete the break of the paragraph, so you can make this follow. And then it looks like this.

Can we live with this?

Chile, is that okay for you?

CHILE:                          It's better.  And just suggest that we give ourselves the task in the next meeting to review this again.  Because what Brazil says is true, but it's also true that maybe this is not the right time to deal with this issue, but we should commit to ourselves to deal with this issue in the next meeting.

CHAIR SCHNEIDER:          I have no doubt that we will deal with this issue for a long time, not just for the next meeting.  So don't -- don't worry.

And remember, this is not a piece of advice.  It's a communication to -- to the Board and to the -- to the rest of the community.  So it's not advice.

Can we go with this?  Okay.  Thank you.

Question to Tom.  What is left?

TOM DALE: I don't want to be unpopular by saying there is something left, but clearly I'm as hungry as everybody else.

I do need to point out there was some slightly amended text concerning the accountability work that was circulated as compromise text by Russia during the break. And it reads as follows in the highlighted -- yellow highlighted section there. This is concerning the section on enhancing ICANN accountability and the briefing from the co-chair of the working group.

It says: The GAC was briefed by one of the co-chairs of the CCWG Accountability Work Stream 2 on the work of each subgroup of the CCWG. Concerns were expressed regarding the work of the subgroup on jurisdiction in relation to actions to be taken to resolve problems already mentioned during discussions in the subgroup, including analyses of all possible solutions to above concerns but not limiting the scope of its work before wide community discussion.

Analysis of such solutions should be based on legal expertise with consideration of all stakeholder interests.

CHAIR SCHNEIDER: Is this acceptable? Canada?

CANADA:                    Thank you very much, Mr. Chairman.  We do have some concerns with this text because it could be interpreted as undermining the CCWG -- CCWG decision that was taken at Sunday's meeting.

As one of the GAC appointed members to the CCWG, we agreed to the approach that the jurisdiction subgroup would take going forward, and we were a part of that CCWG consensus along with other GAC members.  And we're just a bit concerned that it sounds now like we're -- like the GAC is challenging that decision.  So we would propose some edits just to make it a bit more balanced and also reflect that while we recognize some members have concerns regarding various aspects, the GAC as a whole hasn't discussed the specific aspects in the context of the subgroup.

So if I may -- or I could --

So I would propose adding the sentence from Russia's original proposal back in after the first sentence that said "GAC expresses appreciation of work performed by the CCWG accountability subgroups," and period.

Okay.  And then a new sentence:  "Some GAC members expressed," and then leave the rest of that and just remove the second -- yep.  Yep.

Okay.  And then delete "already mentioned during discussions in the subgroup," given that the GAC was not part of the subgroup discussion.

And then also remove "to above concerns" and the rest of that sentence, and add a new sentence there:  "Some other GAC members were satisfied with the approach taken by the CCWG."

And delete the last sentence as this is instructing the CCWG -- or directing the CCWG and sort of predetermining the actions taken.  Thank you.

CHAIR SCHNEIDER:    Thank you.  U.K. and then Iran.

UNITED KINGDOM:    Thank you, Chair, and thank you, Canada.  That -- all that covers exactly my concerns.   It provides a full picture and sets the context exactly -- more exactly right, so appreciate that.  Thank you.

CHAIR SCHNEIDER:    Iran.

IRAN: Thank you, Chair.  I think we express our appreciation once we receive from the CCWG later on the report.  We don't need at this stage to start talking about appreciation.  We don't know what will happen and we don't want to change our view later on.  Now appreciate and later on we see that there are many things yet to be discussed, so delete the portion "GAC express appreciation of the work performed by," so on, so forth.  We do it at the end of the work and hopefully we do that.  At this stage, many things are just on the middle of the work.  We don't need to have an advance publication of the expression of appreciation.  We do not need that at this stage.  Thank you.

CHAIR SCHNEIDER: Well, that would make the text shorter.  U.K.?

UNITED KINGDOM: Sorry.  I missed a point, actually.  We need to add, after "resolve," "outstanding issues and undertake analyses of all possible solutions."

That was really off the top of my head, so feel free to edit.  Thank you.

CHAIR SCHNEIDER: Can we live with this?

"We express that some members have some views while others have other views."

Iran?

IRAN:                       Chairman, at this stage, do we need to say that we are satisfied? Even some members? We have not seen the report. This is still under public comment. Some of them first public, second. Why we say we are satisfied? I know views of some people. Why do we have such a prioritization at this stage? It counterbalance the other views. We don't need at this stage to say that.

CHAIR SCHNEIDER:            Well, the thing is, if we allow some members to express their concerns, we also probably have to allow the satisfaction of other members with the approach. It's not the result; it's the approach taken. So it's one particular decision that is welcomed or is to the satisfaction of some members.

France?

FRANCE:                     Maybe just to Iran's point, maybe we can replace "satisfy" with "supportive," if it helps Iran in its position.

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CHAIR SCHNEIDER:    You would like to say "supportive of the approach" -- "supported the approach" instead of "were supportive of."

Does that -- so that would mean you delete "were satisfied by." Does that help to get us closer to lunch?

Brazil?

UNKNOWN SPEAKER:    (Off microphone.)

CHAIR SCHNEIDER:    Dinner.  You're right.

[ Laughter ]

CHAIR SCHNEIDER:    It means we're also closer to lunch tomorrow.

BRAZIL:    I think we are getting closer, I think.

My -- I would suggest a small amendment on the third line.  I think "Some GAC members expressed concerns regarding" -- I think not "the work" but "the proposed method of work," because I -- I think basically what was proposed was to some -- some parameters for the future work.

So the -- I'd say -- yes.  Thank you.

CHAIR SCHNEIDER:    I think that makes sense because then some liked the proposed approach and others didn't like it.  That's basically what it says and that makes it actually -- probably more coherent.

Can we go with this?

No objections.

One, two, three.

Okay.  It's decided.

What is left?

TOM DALE:    I should not -- I'm sorry.  Iran.

CHAIR SCHNEIDER:    Iran.

IRAN:    When we have GAC consensus advice we need to put "GAC full consensus advice."  This is the third time that I'm repeating this. I have not seen or heard any other proposal.  Thank you.

TOM DALE:            Thank you.  Yeah, that will be reflected in the heading in that section, Iran.  Thank you.

CHAIR SCHNEIDER:     South Africa.

SOUTH AFRICA:        Thank you, Chair.  I know it's late but you were too quick for me.

The amendment by the U.K., I'm -- I just -- if you can read for us that text because now I'm a bit concerned when they are just talking on outstanding issues and to the exclusion of the fact that the text related to also already mentioned issues.

If you can just read through that, one gets a proper sense. Thanks.

TOM DALE:            Thank you.  I'll read the full paragraph.

"The GAC was briefed by one of the co-chairs on the CCWG accountability Work Stream 2 on the current work of each subgroup of the CCWG.  Some GAC members expressed concerns regarding the proposed method of work of the subgroup on jurisdiction in relation to actions to be taken to resolve

outstanding issues and undertake analyses of all possible solutions. Some other GAC members supported the approach taken by the CCWG."

CHAIR SCHNEIDER: Brazil?

BRAZIL: Yes. I think South Africa has a point because in the work of the -- in the subgroup, we cannot say that some issues have already been addressed and there are some outstanding issues as opposed to some --

What the group agreed was to identify issues that should be addressed by the group. We have not even got to that point. We have not -- have a number of issues that will be addressed, so I think that instead of "outstanding," I'd say maybe say "to resolve issues" -- "identified issues," something like that, because we are -- we are not starting -- referring here to something in relation to something else that has already been done. I think this is correct on the part of South Africa. I -- maybe "identified issues" is not the best, but could make it, because that's the language that is used in the work -- work program of the subgroup.

CHAIR SCHNEIDER:    Thank you, South Africa and Brazil.

Can we go with this?  Any objections?

Yeah.  Do we need "resolve"?

UNITED KINGDOM:    "Actions taken to resolve."

CHAIR SCHNEIDER:    Yeah, the "resolve" should have stayed in there.  That's...

"Resolve identified issues."  That is the Brazilian proposal.

Okay.  Thanks, U.K., for raising this.

Can we go with this?

Final two seconds.  One.  Zero.  Okay.  Thank you.

TOM DALE:    One small thing.

CHAIR SCHNEIDER:    One small thing?  Okay.  How small?

TOM DALE:    Very small.

I included some text that you may have noticed at the very beginning, so that everybody is clear.

Under "Internal Matters," the heading is "Olof Nordling."

"The GAC expresses its sincere appreciation and thanks to Olof Nordling who is shortly retiring from ICANN.  He has provided support and counsel at the highest professional standard and will be missed as an advisor and a friend."

CHAIR SCHNEIDER:          Any objections.

Kavouss?

IRAN:                    No objection.  Expand it.  "Devotion and" -- so not very so simple.  This gentleman has been working with us for years and years and years.  It's too simple.  Add his devotion and enthusiasm, energetics, and welcome.  Put it -- this is your language, Tom.  Add something to that, please.

[ Laughter ]

CHAIR SCHNEIDER:         Okay.  We'll try.

TOM DALE:                          I think as the ICANN board would say, "That is noted."

[ Laughter ]

CHAIR SCHNEIDER:          Yes.  Egypt?

EGYPT:                              It's on another thing.  Can I ask now?

CHAIR SCHNEIDER:          Let's stay with this for a second.  Kavouss, you are very good in English as well, so make one or two concrete additions to the text and then I think that's it.

IRAN:                               "And thanks to Olof Nordling devotion and assistance provided to GAC."  Or maybe -- "shortly retiring" -- "has provided support" and --

CHAIR SCHNEIDER:          Wait.  I think the first one is just -- you should add it in a second one.  Maybe we could explicitly say that "support" and so on "to the GAC," so -- if that is not yet clear.

IRAN: "And provided permanent and continuous support and counsel to the GAC of the highest professional standard and will be missed."

BRAZIL: I suggest, Thomas, maybe building on what Kavouss has said before, maybe we could say, "Has provided devout support and permanent counsel" and just reflect on what he said before, Kavouss.

CHAIR SCHNEIDER: Okay. U.K.

UNITED KINGDOM: I was just going to tweak it at the end, "and a great friend of the GAC."

[ Laughter ]

CHAIR SCHNEIDER: Okay. Kavouss.

IRAN: Not this one. Reminder, do we not say anything about the secretariat, about the continuation of the people?

CHAIR SCHNEIDER:         That will come tomorrow.  That will come tomorrow.


BRAZIL:                  Thomas, may I?   I suggest you delete "a friend of the GAC" because I think that could be bad for him --

[ Laughter ]

-- regarding the other part of the community.


CHAIR SCHNEIDER:         Yea, yea, I think it's more a personal friendship that developed in addition to the -- yeah, yeah.  If that's okay for you, Mark, or whoever proposed it.  I think -- it's actually stronger if we say "a friend" than "a friend of the GAC" and it's less dangerous for him. Okay, all right.

Are we done?  Now, wait, wait, wait.  First of all, the U.S. and then CTU -- oh, wait.  What are you going to say?  Is it about the text, or is it -- okay, U.S.  CTU, also have comments about the text?  And Egypt as well.  About tomorrow.  We'll get to tomorrow.

Okay. U.S.

UNITED STATES:              Yes, very briefly.  I don't think this is controversial, but I did catch under the GAC working group on protection of geographic names and new rounds, there's a reference here that states that the GNSO developed or prepared the straw person and that is not correct.  I cannot tell you who did.  I'm not 100% sure on that, but I am confident it's not the GNSO.  But I can find out this evening and let you know.

CHAIR SCHNEIDER:          It is Jeff and Avri sitting in the back.  At least Jeff is sitting in the back.  They are the co-chairs from the GNSO.  Unless you want to specify them, blackmail them, put them -- no.  Can we leave it?  Because they are the co-chairs of the GNSO for this.  Is that okay for you, U.S.?

JEFF NEUMAN:              (off microphone).

UNITED STATES:              Yes.  It's not prepared by the GNSO.

CHAIR SCHNEIDER:          By who is it prepared then?  Co-chairs of the subworking group?

JEFF NEUMAN:              Yes.

CHAIR SCHNEIDER:          Is that more precise?  Okay.  Thank you for this.

                          What is your exact title of the group?  Subgroup or...

                          You are co-chairs of the working group.  Okay.  Thank you for
                          that precision.

                          Who was -- CTU, yes.

CTU:                      Yes.  When did we start saying "full consensus advice"?  Because
                          to my mind, that suggests different degrees of the consensus
                          which I don't know that we've defined.  You know, in fact, I
                          wouldn't advise it if we haven't started.

CHAIR SCHNEIDER:          I think this relates to the new bylaws that say that advice should
                          be full consensus in the absence of formal obligation -- not
                          "obligation," objection.

                          Argentina wanted to take the floor.

| ARGENTINA: | Yes. A clarification about what we do about the NomCom group. Should I -- |
|---|---|
| CHAIR SCHNEIDER: | We'll get to that.<br><br>U.K., you also have a comment on the text or about follow-up? |
| UNITED KINGDOM: | It was on text. I'm just checking the point I raised earlier today about referencing supporting the consumer safeguards director. Was that added to the PSWG text? Remember, I proposed that we make reference to the exchange with the -- with Bryan Schilling and we will support him in his role or something to that effect. And I thought the PSWG drafter was going to do that, incorporate that. Was it incorporated? |
| CHAIR SCHNEIDER: | It seems that has gone missing. Mark, just propose a line on this and then we'll add it.<br><br>Fabien, do you have a line? |
| FABIEN BETREMIEUX: | I just wanted to mention it was added if you go up, "Regarding the DNS abuse mitigation, the GAC met" -- |

CHAIR SCHNEIDER:    Ah, yes.  Thank you, Fabien.  So everything is fine, Mark.

With this, that's the end of today's work on the communique. Now, the issue is the following, we are not -- at least that's the way I understand -- obliged to publish this today because it doesn't contain things where other people are waking up at 6:00 in the morning to see what we wrote probably.

That would have the advantage that our friends of the support staff and the secretariat would not have to go through all the nitty-gritty formatting stuff tonight, that they could actually also have a few hours off, and would allow us to say, we have agreed about this text.  We won't touch this part anymore tomorrow, but we may add some simple text about what we do tomorrow at lunch or whenever we stop.

Under the agreement that we are -- we don't start long negotiations about reflecting tomorrow's activities because we, A, don't have the time and, B, I don't think we want to do that. And we will not reopen the text of today, but we don't have to release this today.  We can also release it tomorrow because -- at least that's my feeling, the world won't go down if we don't release it today.

What are your views on this proposal?  Iran.

IRAN: We fully agree not to open anything we have discussed tonight and tomorrow would be before 12:00 noon but not at the late evening. Thank you. Because usually it is one day before the end. So we have to have time limit. Tomorrow at noon we have to release the communique. Thank you.

CHAIR SCHNEIDER: Probably will be during the coffee break because then again some formatting may be needed.

Brazil.

BRAZIL: I also agree. But I think we should not close the door in case there is some minor edits or clarification or things that are factually wrong. Should not be restrained from doing that in regard to what we have done today.

CHAIR SCHNEIDER: Maybe you don't know, but normally I do some proofreading together with the secretariat at something like 11:00 at night on Wednesdays or wherever, two, three hours. We will do proofreading. And if there is a word missing or spelling mistake,

these things, of course, will be corrected.  But no reopening the substance.

CTU?  Egypt.


CTU:                          Well, I don't know if this is substance.   But back on the consensus advice thing, based on the briefs that -- on the briefs that we got from Tom, "the expected board reaction" -- and this is the quotation -- "on GAC consensus advice" and when you read it, "any Governmental Advisory Committee advice approved by a full Governmental Advisory Committee consensus understood to mean the practice of adopting decisions by general agreement," blah, blah, blah, blah, causes certain things -- well, causes the board to have to do certain things.

But the reference is to GAC consensus advice, not "full" in there, when you are talking about the name of the advice, right?

I think it would be more accurate just to say "GAC consensus advice" because it means something.  And it's stated what it means there in the bylaws, right?  But I think it's not a good precedent for us to start putting "full" in front of it.


CHAIR SCHNEIDER:           Thank you.  I think you have a point.

Can we say "is GAC consensus advice as defined in the bylaws, section" whatever that is?

CTU:                            You could.

CHAIR SCHNEIDER:               12.2. Is that okay? You are right. It is called GAC consensus advice which is then defined as full consensus and so on and so forth.

Iran, can you live with that?

IRAN:                          I explain to our distinguished colleagues from CTU that we need to say because the treatment of the full consensus advice is different from consensus advice. They are different. This is subject to many, many hours and days of discussions. Please kindly allow us to retain what we have full consensus advice. Otherwise, some of the board members think that it is not full consensus.

CHAIR SCHNEIDER:               Kavouss. Kavouss.

| | |
|---|---|
| IRAN: | I do not agree.  I'm very sorry, I do not agree. |

| | |
|---|---|
| CHAIR SCHNEIDER: | Yes.  Let me tell you this:  What is defined as full consensus advice is called in the bylaws consensus advice.  C.T.U. is right.  Consensus advice.  And the reference is later on in the bylaws we referred to consensus advice as defined in that particular thing.  So I think actually the CTU is right.  Brazil. |

| | |
|---|---|
| BRAZIL: | Yeah.  And I would add that in the course of the discussions of the transition, when we opposed to use "full consensus advice," that terminology, because consensus advice in the context of countries is no consensus advice.  I think the idea of having that further clarification and to tie our hands was something inappropriate.  So it might be awkward that now we are using language that we tried to not -- not to have incorporated.  So I think consensus advice, everybody don't know what -- I think this will not be seen as not being full consensus.  So I -- I go for consensus advice.  Thank you. |

| | |
|---|---|
| CHAIR SCHNEIDER: | Can we say consensus advice as defined in the specific section of the bylaws?  Switzerland. |

SWITZERLAND:              Thank you, Chair.   I was wondering, are we reinventing the wheel because we already did this in Hyderabad, for instance. And we started the section with the following items of advice from the GAC to the board have been reached on the basis of consensus as defined in the ICANN bylaws.  Why do we have to re-litigate this?

CHAIR SCHNEIDER:         Can we just use the same formulation in the heading of -- like we did in -- where was it, Copenhagen, Hyderabad, whatever?  We just copy paste what we had before, is that okay?  We use what we -- because we had that discussion sometime back.

IRAN:                      You say the formulation, where it comes as defined in section X of the bylaw.  The title where?  I don't understand this exercise.  I don't understand this situation.

CHAIR SCHNEIDER:         Can we agree that we use -- that we do as we have done in previous communiques after Marrakech?  Is that okay?  We can't do as we did last time at the -- why?  What did we do wrong, if we can't do that.

IRAN:                         I can tell you that some of the board members, they have told that look, this is consensus advice.  GAC may have some sort of the consensus with some objections and still they think it consensus.  But full consensus that means agreed by everybody.  So I request that not change that we have done it in Copenhagen and does not create a problem and that is that we have to continue that.  Let us not complicate our work.  Because in future we may have a consensus advice based off one or two objections.  Consensus advice according to the procedure that we may define, may define in the future.  Let us put full consensus advice as it was in that particular thing which was imposed to us as stress test 18, full consensus advice.

BRAZIL:                       Thomas.  I think part of the problem we had before was, maybe I'm wrong, it was in relation to the advice given in regard to the two-letter code because although it was a consensus advice, it had language that said -- that referred to some countries or individual countries.  I think that was the reason why it was challenged as full consensus.  But I don't see any of this -- that language here, so I don't think that would be any questioning on -- that this reflects the will of the full GAC.  And since we have a precedent, I -- and this -- and even these advice regarding the

two-letter issues, you recall that it prompted the board to engage in consultation.  So I think even though there were some questions, it prompted the GAC to engage in consultations.  And so I don't see any problem in doing it now, but I'm -- I would follow what the group decides.

CHAIR SCHNEIDER:    Thank you.  And the advice about the two-character code was a full consensus advice.  So whether we call it full or not, there was no objection to that advice from nobody.  So I think we are confusing something here.  Can we just use what we used in Copenhagen and Hyderabad and do the same?  Can we do that.

UNKNOWN SPEAKER:    (Off microphone).

CHAIR SCHNEIDER:    Yeah.  We make a reference to the definition.  This is defined in the bylaws.  We used a term used in the bylaws and make a reference to the definition like we had done before.  Can we go with this? Okay.  Thank you.

We do still have Egypt that wants to take the floor.

EGYPT: Yes. Just to note that we are trying to agree to issue the communique by noon tomorrow, but I'm just noting that there are sessions scheduled after noon -- I mean, after the lunch break. The independent secretariat is scheduled at 2:00 and also the Web site and a couple of other things. So...

CHAIR SCHNEIDER: So we don't finish at noon, we finish at 3:00; is that correct? So we'll publish it after 3:00. Once our sessions are over, we'll go through it, eliminate spelling errors and other nice things, and then we'll let it go. Iran.

IRAN: Yes, Thomas, unfortunately when in Copenhagen, with respect to the concerns expressed about the two-letter, the title was GAC full consensus advice. It was changed during the processing. I can't agree as contained in ICANN bylaw. We should refer to the paragraph. Adding that paragraph I have to see reference to full consensus advice. So please kindly give which paragraph you're saying and quote that paragraph and bring me the text I can -- I have to see that. Many things has happened during the processing.

CHAIR SCHNEIDER:     What we can do is we can put a footnote there and quote the entire para of the bylaws so that it is visible what that definition means.  Is that okay?  Kavouss, you will have the full text of the respective paragraph as a footnote on the -- on that page.  Is that okay?

IRAN:     That reference is made to full consensus.

CHAIR SCHNEIDER:     Yes, this is what it --

IRAN:     If it's there, I have no problem.

CHAIR SCHNEIDER:     Okay.  All right.  So we note footnote full text.  Okay.  Thank you.  Any other things that we forgot or should discuss?  No?  Three, two, one.  I know, this is a joke so don't take this serious but what I'm trying to see is this the end of today's meeting, do we have the communique agreed, whatever is in there on substance, no more discussions about today's work.  We'll try to be efficient to put some things in about tomorrow's work, and that's it.  Okay?  Mark tells me thank interpreters.  Thank interpreters.

[ Applause ]

Thanks, Mark, for reminding me.  And technical staff.  And we'll -- we'll do the thanking tomorrow, if that's okay, because I think we're too tired.  We will forget about half of the people that worked hard.  But thanks all of us, all of you, and enjoy the evening.  Thank you.

**[END OF TRANSCRIPTION]**

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