
KOBE - GAC: ICANN64 Communique Drafting (2 of 4)
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MANAL ISMAIL, GAC CHAIR: Thank you for your patience apologies for the late start. We have the communique on the screen. I think we can scroll down -- [overlapping conversations] so now that we had our meeting with the ccNSO this is to confirm that nothing to add here. For the ALAC, again, it's the same agenda that we have discussed that's on the screen but then we've added one sentence reading the GAC and ALAC members agree to proceed with the drafting of a joint statement on EPDP to be published separately. Is this fine by everyone? Because we haven't had the chance to discuss the statement here during the meeting I see nodding so that's -- move down.

Just in case people were not in the room in the morning when we presented this text, again, this is on working group on GAC operating principles of evolution which will meet tomorrow morning, and the text reads the reads the according group co-chairs presented and outlined the charter framework scope and work plan for the new GAC operating principles evolution working group established in Barcelona so this is what will happen tomorrow and then the working group charter and work plan

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were approved, adjust placeholder until we see tomorrow whether the work plan will be approved or not. If approved, we will remove the brackets. If not, then the sentence will be deleted. Because at the end the communique doesn't go out until we finish our meetings, but we don't have a chance to get into a drafting session after the meetings tomorrow.

So the cross community working group accountability work stream 2, the text now reads the GAC was briefed on recent developments regarding the CCWG accountability recommendations for the GAC to consider options for inventory development and tracking of recommendations impacting the committee. And this is the text on jurisdiction. We thought it's better to put it in context with the session that it was raised at. And the text reads one intervention raised an issue on possible future steps that need to be taken in order to address concerns regarding ICANN jurisdiction stated by some stakeholders in the jurisdiction subgroup final report and recommendations, and in brackets, it was expressed this issue remain it's open requiring further consideration by GAC and ICANN board. So just to highlight the changes, the text has been moved to this session. We deleted the name of the country and we have put one intervention because out of experience we have never mentioned or signaled out a specific country. And finally we have remaining

now the sentence between brackets to be finalized. So have we managed to reach an agreement on this last sentence? US.

UNITED STATES:

Thank you, Ashley with the US. I think it would address at least my concern if we continue on with how the prior sentence phrased. Something along the lines of that one intervention expressed, because that was single intervention and I wouldn't want to give the impression that this was discussed and agreed upon by the full GAC, that was not the GAC. I think that's the intention but if for the sake of clarity if we could make a reference along the lines of what we said in the final sentence, I could be satisfied with this text. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. Russia, please.

RUSSIA:

Thank you and the proposal is totally in line with us if we put [indiscernible] expressed that was what happened but if we already remove the square brackets at the end because we're now talking about the intervention and we talk about the ICANN board and GAC.

MANAL ISMAIL, GAC CHAIR: I was just checking, what if we put a comma and say and express that this issue remains open and requires further consideration by the GAC and ICANN board now, if we're going to mention one concrete intervention and then we can remove the brackets. Okay. So Denmark.

DENMARK: Just another question when I see the text above there stated some stakeholders. I think to be more precise, some countries who have expressed -- it's not stakeholders in the ICANN community as such but it was some specific countries who have raised. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Denmark. China, please.

CHINA: Thank you, Manal. I don't have a problem with the current text, but I take this opportunity and just want to express that China also want to echo some of the basic points within the language with the Russian Federation. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, China. Any other comments? Brazil, please.

THIAGO JARDIM: I just wanted to react to Denmark's suggestion to replace the word stakeholders for countries. I did participate in that subgroup and there was at least I think one participant not from any government so perhaps if we want to move forward without getting into too much discussion here we could simply eliminate the reference to by some countries or stakeholders and leave it as ICANN jurisdiction stated in the jurisdiction subgroup final report. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Brazil. Is the final text okay as stands on the screen? Russia, please.

RUSSIA: Thank you, and to understand correctly that we remove the square brackets in the end.

MANAL ISMAIL, GAC CHAIR: Yes. So the final text now reads the GAC was briefed on recent developments regarding the cross community working group accountability recommendations for the GAC to consider options for inventory development and tracking of recommendations impacting the committee. One intervention raised an issue on possible future steps that need to be taken in order to address the concerns regarding ICANN jurisdiction stated in the jurisdiction

subgroup final report and recommendations and expressed that this issue remains open and required further consideration by GAC and ICANN board. Okay. I see nodding. Yes, we're good. Denmark, please.

DENMARK: Perhaps it was an intervention and others didn't have the possibility at that moment to intervene just to say that at least for Denmark we do not support the view, and I think it would be better to have a clear perhaps after the sentence to mention that not all GAC members agrees with the intention in the intervention.

MANAL ISMAIL, GAC CHAIR: So what is the sentence, again? I'm sorry, not all?

DENMARK: Not all GAC members. Perhaps it could be better with the agreed intervention put forth by Russia.

FRANCE: I think maybe one solution, I think if I understood China's position correctly, they support the statement but Russia so maybe a way to state it more coherent would be to say some countries -- and then the traditional don't agree with the issue because -- I don't

remember, we said not all GAC members. I don't think we ever said that, maybe it's a way of saying some countries and some others, our favorite way of framing these kinds of issues.

MANAL ISMAIL, GAC CHAIR: Thank you, France. And frankly speaking, we were already saying one intervention, so it doesn't really -- I mean include anyone else. But I give the floor to Russia and China and then we can discuss.

RUSSIA: Thank you, and we appreciate the comments made by France and Denmark but unfortunately, we could not do that because there was time for discussion and drafting on the communique and in the communique, we should reflect what was the discussion and the discussion already ended. We are more than happy to open the discussion right now and make a new communique and put it like a [indiscernible] communique some countries stated that and some countries stated another -- we are open for this discussion and we will be happy to do it right now, but if we're reflecting the discussion that already took place then we need to exclude the final phrase and leave the text as it is.

MANAL ISMAIL, GAC CHAIR: Thank you, Russia. And very frankly, I'm trying to avoid the discussion of some and some others and others and -- anyway, we will see how it goes.

CHINA: Thank you, Manal. So my approach is I think I agree with you. I would like to avoid the style some GAC members and some others, blah, blah, blah, so just my thinking. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, China. US.

UNITED STATES: I don't want to prolong the discussion but just for the sake of posterity, I don't recall citing some single intervention in a communique either but I think for the time being we could maybe take some time to consider this and come back to it but I don't recall there being a time for a discussion on it just for the record, thank you.

MANAL ISMAIL, GAC CHAIR: So actually we took one intervention from -- we're quoting from the Barcelona communique so that's how we came to the phrasing, we're working along the same lines that we did before.

So having said that, would it be okay to delete the final sentence, Denmark?

DENMARK:

Well, I don't think there was any discussion that popped up during -- I don't know which subject we were discussing, it came up and am we didn't have the time to reflect upon -- I at that time thought Russia would put it to the vote, when there was a vote meeting there was a lot of time and wasn't brought up. I will only state here and it will be -- I can live with the deletion but only state that Denmark do not support the view. I remember our discussion in Barcelona where we discussed a lot of the jurisdiction and at that time it was rather clear if the GAC as a whole could accept the recommendation was prepared for what was in the report to see on further discussion on the communique as some GAC members was rather insisting not to accept the report and we didn't have a positive outcome. We are not able to know to reopen the discussion and have certain cherry pickings in that, so we will not be favoring anymore discussion on jurisdiction. It was done, there was a window of opportunity, but certain countries didn't take that possibility. So for us the issue is closed now. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Denmark. Russia, do you mind keeping the sentence.

RUSSIA: Unfortunately not, because we agreed there was no discussion and we agreed -- don't need the phrase, that is where the misunderstanding is in the final phrase, can make an interpretation that there was a discussion. There was not, and we need to delete the final phrase, and everything will be okay.

MANAL ISMAIL, GAC CHAIR: So I have the UK first --

UK: Thank you, Chair. Paul Blaker for the UK. I think it might be helpful to have a bit more time to look at this because it's important that the last sentence that we recognize that not all GAC members agree but perhaps there's a more positive way in which we could put it. I would agree the last sentence does perhaps sound rather negative and perhaps with a bit more time we can find more positive language that others would be able to support.

MANAL ISMAIL, GAC CHAIR: Thank you, UK. I was going to suggest the same, that we park the text for now. We know where the discussion is and continue. But I have Brazil first.

BRAZIL: Thank you. Thiago for Brazil. I was going to suggest more positive text to end this sentence and that would be something that really reflects what took place and what took place was that no discussion took place even though there was the suggestion by the intervening country that there should be some discussion whether this could be now or in the future was left open but what happened, no actual discussion really took place.

MANAL ISMAIL, GAC CHAIR: Thank you, Brazil. Denmark, would this address your concerns if we replace not all GAC members agree with the intent of the intervention by no discussion really took place? I don't think we should put really -- yeah, no discussion took place.

DENMARK: There was a suggestion to have a little more time so that might be, -- but otherwise --

MANAL ISMAIL, GAC CHAIR: Sorry, you are right, let's have more time and get back to it. So we have -- so we went quickly through this text in the morning and I'm under the impression that there was an agreement to remove the final sentence. So yes, US, please.

UNITED STATES: Just to be clear and as I noted this morning, this was a suggestion and proposal put forward by the US and Brazil as far as I'm aware hasn't been considered by the other Amazon countries or the GAC so just want to make sure that's clear.

MANAL ISMAIL, GAC CHAIR: Thank you, yes, you're right. I just wanted to say that those who weighed views yesterday were able to reach a compromise but not everyone was there, so it only makes sense that we pose here and see if there are any comments yes, Hungary.

HUNGARY: Just a minor thing which was significant thing in the history, final solution is in German speaking colleagues may associate it with something, so I would final agreement.

MANAL ISMAIL, GAC CHAIR: Towards a final agreement? Yeah, we will replace solution with agreement. Any comments? Okay. Any comments on the rest of the text? Okay. Then -- yes, approved. I think it's -- interesting something changed here which I'm not sure. So is number 2 is new bullet? [speaker away from microphone].

So maybe we can read the whole thing because -- not to overlook any changes. So bullet one reads take necessary steps to ensure

that the GNSO EPDP on the temporary specification for gTLD registration data institutes concrete milestones in an expeditious deadline for concluding Phase II acts.

Take necessary steps to ensure the EPDP delivers a comprehensive report by February 2020 when Phase I implementation is to be completed. 3, take necessary steps to ensure that the scope of Phase II activities is clearly defined with a view to expeditious conclusion and implementation. 4, make available the necessary resources for Phase II to expeditious advance on the complex legal issues, the third from Phase I. 5, consider instituting additional parallel work efforts on technical implementation such as that carried out by the technical study group for purposes of informing and complementing the EPDP's Phase II activities. 5(sic) -- facilitate swift implementation of the new registration directory services policies including by sending distinct parts to implementation as and when they are agreed such as the questions referred from Phase I. Questions referred from Phase I? Okay. 7. Yeah, sorry, consider restarting implementation processes for relevant existing policies such as the privacy proxy services accreditation issues policy. So we will pause here. Any comments on any of the bullets? I can see US, Spain.

UNITED STATES: Thank you. I have concerns but I would like to first get a little bit more detail and maybe I won't be concerned anymore. Not sure where this sub bullet 2 has come from, this is the first time I've seen it and I know we had discussed it yesterday, at least in principle when drafting this and I had concerns then so I'm just curious to know how this was proposed and to try and better understand the rationale before I proceed any further. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. France.

FRANCE: Thank you, Chair, [indiscernible] I thought they put France's suggestion, but may it doesn't appear. It was something we discussed yesterday, wanted to propose some text. The idea is if we only have bullet 1, it might seem a bit weak and not be ambitious enough regarding the delivery of Phase II. I don't know if you were in the room during the public forum which was held a few days ago but you had many community members who said that for instance some groups like the [indiscernible] groups took years, if it's an open ended process, we might have volunteer fatigue and negative consequences so I think as GAC we should propose one milestone, and an easy one would be to link it with Phase I implementation, supposed to be completed in February

2020 according to recreation 12, to be ambitious and try to provide at least one milestone for the process. I'm not suggests we ask for the Phase II to conclude everything in a year, might be too ambitious but at least to deliver some for instance, for instance the [indiscernible] report. Happy to discuss further with the US if needed.

MANAL ISMAIL, GAC CHAIR: So I will take Spain and then US.

SPAIN: Thank you. I would kindly suggest to keep point 7 but to reword it. Instead of saying to consider restarting the implementation, to restart the implementation as this -- particularly PDP as policy did that, policy crucial to the success of EPDP and the use of the WHOIS tool by law enforcement.

MANAL ISMAIL, GAC CHAIR: US.

UNITED STATES: Thank you. And thank you, Ghislain, for that explanation, would like to articulate concerns with this language and note I was at that public forum and on the panel for that public forum as well as the first to indicate there needs to be expeditious time frame

associated with this effort. The problem I have with this is by indicating a date, literally two days after the first meeting of Phase II in the EPDP where we have not yet agreed to a work plan or even what the scope of this group is, that we are not only unnecessarily prematurely binding this group to a date but possibly even ourselves, in my mind it may not take this long. In my mind we might want to reserve the right to have things implemented sooner than this. I don't think it's in very good faith as well as a participant in the EPDP to essentially be pulling a date out of the thin air not based on anything. That was one concern, but also a concern that we discussed yesterday was we don't want to put ourselves in a situation where the board is going to reject GAC advice. Not clear to me what they can do in this situation, and that's of concern as well when it comes to the integrity of GAC advice. So certainly open to other people's ideas, I'm not the only voice in this room, but I'm very much in favor of there being a concrete deadline but I think now is too soon to be proposing one. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. And yes, we have gone through this discussion while preparing for the board meeting as well. Iran, and then European Commission.

KAVOUSS ARASTEH: As a member of the Phase I EPDP, not Phase II, I don't think that 29 February 2020 has anything to do with the Phase II. Is the effective date of the policy consensus or consensus policy? We have three dates, first 25th of May expiration of temporary specifications which now is corrected to be the 20th of May because every three months should be a review. If you multiply by four, three months, you come to 261 days, so 125th of May now becomes 20th of May. The second one is saying -- Six months before the effective date ICANN should announce the effective date for registrars not attending this meeting and 29 February 2020, is only effective days of the consensus policy, we could not get into the detail of Phase II and asking anything. This is a matter to be discussed at the Phase II meeting and perhaps a member of the GAC could raise the issue saying that some progress report or some report, but it is not part of the advice [indiscernible] otherwise the advice may not be proceed. So we may compromise the first one which is very important for us. So I suggest that as a professional only, not to put this number 2 at all. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Iran, and again, I think this goes along the lines we discussed before, the preparation for the board meeting, but I also have a request for the floor from European Commission.

EUROPEAN COMMISSION: Yes, thank you, Manal. Just a proposal to consider because if I've understood Ghislain, he's not asking for the policy to be done but rather for update and comprehensive report, maybe misunderstood is asking for the whole thing to be done, wondering if the problem could be addressed by dropping the comprehensive and referring to more state of play or maybe not necessarily define the format it takes but just to senator we would like to understand where things stand at that point in time and I agree with those that have said of course the date is just the end of implementation for Phase I but nonetheless, it's the only date we have right now that we can sort of latch onto and say why don't we take stock of where we stand at that point in time just is a suggestion for a possible compromise.

MANAL ISMAIL, GAC CHAIR: Thank you, European Commission. I have the US.

UNITED STATES: Thank you, this is Ashley with the US and I appreciate the European commission's attempt at trying to find compromise text but again, I would like to go back to a print I made previously which is there's a very artificial date that I think could actually work against us. I would like to get a report at the next meeting in Marrakesh. I just don't see the value of February 2020, particularly when we are not informed as to how this process is

going to move forward. I am opposed -- I mean, my -- not opposed, my outer limit would be at the most 12 months. I don't know that I'm prepared to accept a date that goes 12 months out to be the time that we're getting a progress report. I think it's prudent that we don't set ourselves or even negatively impact our ultimate goal here by putting a date that may not be the date that we want to have reflected. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. So France, would you accept deleting the bullet or.

GHISLAIN DE SALINS: What I've heard is we need milestones, but we don't want to articulate Phase II with Phase I at all, which is a bit incoherent, if you ask me, we have one date, February 2020 when we will have implementation of Phase I which is supposed to be finished. So it might seem out of the blue, the only date we have which is why we're trying to articulate Phase I with Phase II and asking for update, of course ideally, we would have date before that. But for me, it's important to have dates if we could ask the US for maybe an update for the next meeting in Marrakesh I think it's important to not become open ended, it's a real risk in Phase II, in Phase I we had the [indiscernible] and that bought deadline that was very clear, we don't have that for Phase II so far so if we don't put a

clear date, the risk we face and the current advice we have, I don't see any way for us to say we will have v a deadline. Asking the board to find one when proposing anything. I think as GAC we should look forward and actually propose a day whether that is February 2020 or the next meeting but I'm open to suggestion. I think the suggestion by the European Commission was very good. A date might be less threatened than the conference report, but maybe we could engage in a constructive talk with the US, so we can find an agreement on this. Thank you.

MANAL ISMAIL, GAC CHAIR: So I'm happy to leave this and give you a chance to discuss but I'm just flagging that we agreed not to imposes any dates even during our preparation for the board meeting so -- I mean, maybe we can add to the first multi milestones expeditious deadline and regular reporting for example if we want to have regular reporting? If this addresses your point. I mean without mentioning specific dates. I see nodding. US, please.

UNITED STATES: A possible other compromise, amending bullet 1 is an expression perhaps of expeditious timeline similar to Phase I. I would feel more comfortable with that because I think what is at issue here is that we had that external deadline that drove the work of Phase I which we don't have for Phase II. So I think maybe making a

correlation to Phase I could be a way to get our point across without binding ourselves to a date that's not informed. Thank you.

MANAL ISMAIL, GAC CHAIR: So proposal is expeditious deadline similar to Phase I? -- timeline, yeah, I'm sorry. US, does this reflect your proposal? Okay. Iran, please.

KAVOUSS ARASTEH: Thank you, Manal. Still hesitating to comment but obliged to comment, please kindly do not touch the first sentence, add at the end including progressive report for sum [indiscernible] including progressive reports. That is the only thing we could add to that one along the lines of what you have said but don't mess with the first part entirely different from the progress report.

MANAL ISMAIL, GAC CHAIR: Including progressive report.

KAVOUSS ARASTEH: For that completion -- for that report. Thank you. Because milestones may include many things. So [indiscernible] inclusive of having a report as well but if you want to emphasize, including progress report, that would be sufficient thank you.

MANAL ISMAIL, GAC CHAIR: So the first sentence now reads take necessary stopes ensure that the GNSO EPDP on the temporary specification for gTLD registration data institutes concrete milestones and expeditious timeline similar to Phase I for conducting Phase II activities including progress reports? No? After.

KAVOUSS ARASTEH: Please delete similar to Phase I, Phase I goes to the initial sentence you had.

MANAL ISMAIL, GAC CHAIR: So I don't see agreement so can we park the text for now and then, US, please.

UNITED STATES: I'm sorry, I don't mean to prolong the discussion but just in case it wasn't abundantly clear as to why there's a reference to Phase I in the first bullet, this was an attempt to move away from the text currently reflected in bullet 2 that specifies a very -- close to being a very specific date so instead indicate that we expect there to be a timeline similar to Phase I so get away from having a reference a specific date. I hope this could be found acceptable by Iran, happy to consider further. Open to figure out

compromise text, this might not be it but hoping the explanation might make it a little clearer.

MANAL ISMAIL, GAC CHAIR: Acceptable, Iran?

KAVOUSS ARASTEH: If we totally delete number 2, we have no problem with number 1.

MANAL ISMAIL, GAC CHAIR: France, are you okay now with deleting number 2 after modifications to number 1?

GHISLAIN DE SALINS: Yeah, thank you, Chair, and to the US and Iran and commission. I think we're getting closer to a good solution with the new point 1, so I will accept 2 into brackets for you. For Phase II we don't have the external deadline we had. The risk is how do we manage to deliver, and this doesn't become open ended and last for years, but I think we're close to a solution with the current adding in Phase I.

MANAL ISMAIL, GAC CHAIR: I think this is the essence of the first bullet but without explicit dates, right? So I think we're good to delete number 2? So before leaving this part, I would like to go back again to what Spain suggested and make sure that -- so there is a suggestion to delete consider. So multi 6 would read restart implementation processes for relevant existing policies such as the privacy proxy services accreditation issues policy. Just to share with you that - I mean, out of my attendance to some board meetings, I understand that this is pending, the work of Phase I and 2 to finish so that they can -- I mean, implement this policy in light of the outcome from EPDP Phase I and 2, so this was the rationale mentioned during the meetings. So with this in mind, are we good to advise the board that they have to restart this process again? If this is -- I'm just trying to make sure that we also know the rationale before we put the advice. Thank you, Spain, please.

SPAIN: Yes, I am sorry. In our view and in the view, I think of most law enforcement, both things, the EPDP and the privacy proxy services [indiscernible] policy are two totally different matters and the implementation of EPDP has nothing to do with the privacy proxy services which are an extra service offered by the registries that has been made totally useless by the existence of GDPR. I mean, colleagues from the Spanish law enforcement community are telling me that up to 70 percent of malicious

domains that pop up in criminal investigations are using privacy and proxy services. Criminals don't take a chance and this privacy and proxy services are being a hub to criminal investigations that are using the temporary specification. Furthermore, of course [indiscernible] [reading] I do not think there will be a privacy enforcement in Europe or anywhere that was endorse the offering of privacy services that must be paid extra and offered only to a select circle of users instead of to all citizens. This is not a question of technology or a question of implementing a tool, this is a question of some privacy proxy services that are not in line with GDPR or with the legislation of the [indiscernible] countries and [indiscernible] for the adequate use of the temporary specification. That is the rationale from our part to not wait until EPDP is completed to implement the privacy proxy services [indiscernible] policy which is -- it is essential that it is launched, and it is, the perfect example of EPDP consensus-based policy that was in its final stages and about to implement it.

MANAL ISMAIL, GAC CHAIR: Thank you, Spain. I leave it in the hands of those who are more involved in the policy. Any other comments on this section before we move on? European Commission.

EUROPEAN COMMISSION: Yeah, we had put the word consider because I understand the board might have to take into account other advices to relaunch the work on this policy. So that's why we want it to be a bit more neutral and invite them to consider.

MANAL ISMAIL, GAC CHAIR: Thank you, European Commission. And I think consider would give the right balance so that we don't run into troubles if it turned to be interdependent or -- so are you okay, Spain, if keep consider?

SPAIN: Well, maybe strongly consider? Expeditiously consider?

[laughter]

Strongly and expeditiously consider? I mean, this is a point that is dear to Spanish law enforcement and [indiscernible] dear I'm sure to French law enforcement and law enforcement in the whole of Europe.

MANAL ISMAIL, GAC CHAIR: So let's maintain consider and try to see if we can put some sense of urgency here, but I think it's important to keep it flexible. Because I'm sure they would accept to consider this and get back to us. But if we say something that is not implementable, it

becomes a difficult situation then. So we will try to think of something more urgent but for now we leave it at this approved, yes, thank you Fabien.

Can we scroll down? So we may need to read the rationale again. The GAC has consistently advised on the necessity of finding a swift solution to ensuring timely access to nonpublic registration data for legitimate third-party purposes that complies with the requirements of the GDPR and other privacy laws in view of the significant negative impact of the changes in WHOIS accessibility on users with legitimate purposes. The GAC has previously noted that such will be legitimate purposes include civil, administrative and criminal law enforcement. The GAC has previously noted that such legitimate purposes include civil, administrative, and criminal law enforcement, cyber security, consumer protection and IP rights protection. The GAC also notes that the European data protection board if its guidance has expressly encouraged ICANN and the community to develop a comprehensive model covering the entirety of the data processing cycle from collection to access. As already highlighted in the GAC's Puerto Rico communique, the GDPR provides for mechanisms to balance the various legitimate public and private interests at stake, including privacy and accountability. We note that the legitimate interests reflected in ICANN's bylaws are consistent with the [indiscernible] to the GDPR which provide examples such as preventing fraud,

ensuring network and information security, including the ability to resist unlawful or malicious actions and reporting possible criminal act or threats to public security to authorities and there's a reference to GDPR 47, 49, and 50. Any comments? Okay.

On number 5 because we didn't explicitly approve it, but I take it there are no comments? Because it is still in red line. Can we accept number 5? So I don't see objections so yes, please. So Fabien, yeah, we can accept number 5. So accepting number 5, and I think accepting the rationale as well. So do we have anything else to review now? Have we received the text on subsequent procedures and CCT review? Yes, US, please.

UNITED STATES: I'm literally inputting it right this minute. If you can bear with me for about two minutes, I can have something.

MANAL ISMAIL, GAC CHAIR: Thank you. So we are giving like five minutes to receive the CCT review and the subsequent procedures if you want to stretch.

PLEASE STAND BY...

MANAL ISMAIL, GAC CHAIR: Are we ready to complete this iteration of the communique? So we now have the text on cross community working group accountability work stream 2. And I understand there was an agreement to replace the final sentence by there are different views on this matter by the GAC. Comments.

BRAZIL: Thiago, for the record. Since there were no real discussion on this issue, wouldn't it be more accurate instead of saying there are we said there may be different views on this matter and once we have this discussion, then we can say there are, if there really are different views on this matter. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Brazil. See Sri Lanka.

SRI LANKA: [speaker away from microphone]

MANAL ISMAIL, GAC CHAIR: Sorry, can you repeat.

SRI LANKA: There were; past tense.

MANAL ISMAIL, GAC CHAIR: Okay. There were. I mean, the views remain the same I would say, but yeah. Thank you, Sri Lanka. I'm trying to think out loud here. Can we maybe reference the discussion and the communique of -- was it Barcelona? I mean we've gone through this before and listed our views and we have weighed the some and some and others and everything, so it's already there somewhere. Can we just reference this if we want? UK.

UK: Paul Blaker. I think if we're only going to reference previous discussions, I'm not sure why we need this paragraph at all then. But we've tried to come to a compromise agreement and worked with are you Russia to find a solution which is as simple, short as positive as possible and this is what we have been able to agree. I think saying there may be different views would be very surprising to many people [laughter], whether it's there were or there are, I don't mind, it swings and roundabouts, but I think we've reached a consensus here with Russia and perhaps other inclusion will be willing to go along with it so we can make progress.

MANAL ISMAIL, GAC CHAIR: Brazil, can you live with there are different views on this matter in the GAC?

THIAGO JARDIM: Yes, we can live with keeping the original text as agreed between Russia and the others. Just to clarify, I thought we were referring to possible disagreement in relation to the suggestion by the [indiscernible] country which to my understanding referred to what would be the next steps regarding the way the board could deal with the recommendations on jurisdiction as a whole because in any case the board receives those recommendations regardless of what happened in the GAC in the past and with respect to what the board will do with those recommendations, we don't really know what the GAC opinion might be -- I don't know, I thought the discussions we would be referring to would be different than the discussions in Barcelona so since we are referring to what already took place, there's no problem in keeping as it was, there are different views on the matter.

MANAL ISMAIL, GAC CHAIR: Thank you, Brazil, for the clarification. So you were forward looking, and you cannot predict what the views would be, but others were documenting the status quo, basically. So thank you for the clarification. So I think then we're good to go? Yeah, we will leave it as there are different views on this matter in the GAC. Full stop. Thank you so I think we now have text for the subsequent procedures and the CCT review if we can scroll down. Yeah, so -- before going to the subsequent procedures I was notified that this is still in red lines so are we good to accept the

text on the screen? Take necessary steps to ensure that the GNSO EPDP on the temporary specifications for gTLD registration data institutes concrete milestones and expeditious timeline. And then we have to Phase I in brackets. For concluded --

WIPO:

I wanted to express our support for noting the intervention from France, the suggestion for a firm deadline and the proposed compromise from the US, just to say we strongly support that proposed compromise and would suggest that if not the exact language similar to Phase I something along those lines should be assured captured to not allow this to become an open-ended process. Thank you.

MANAL ISMAIL, GAC CHAIR: Sure. Okay. Thank you, WIPO. So France.

FRANCE:

Thank you, Chair. Well, WIPO articulated very well and clearly. I think the agreement was to delete the proposed point 2. If we removed the brackets on similar to Phase I, I would be happy with this. And I think it would make more sense maybe to write it so concrete milestone regular progress reports and expeditious timeline similar to Phase I for Phase II activity so maybe put regular progressive reports after milestones. And then remove

the brackets and similar to Phase I think would be good. Thank you.

MANAL ISMAIL, GAC CHAIR: So the sentence now reads take necessary steps to ensure that the GNSO EPDP on the temporary specification for gTLD registration data institutes concrete milestones, progress reports, and an expeditious timeline similar to Phase I for concluding Phase II activities. Full stop. Is this okay with everyone? Yeah, I think it's good that we be clear even among ourselves because normally we receive a clarification call from the board later on, so if they ask what we mean by similar to Phase I, do we have a common understanding of what we mean by similar to Phase I? Because in Phase I there was the pressure of the temporary specification expiring after one year. I mean just in case we're asked, and I'm sure we would because after the communique posting we have our clarification call with the board in four weeks. US, please.

UNITED STATES: Thank you. I'm happy to provide that clarification but I still would not support it being in the text but just to give you an idea, it's technically I believe it was 12 months but in practice it was closer to 6-7 months and from my perspective the 6-7 months, since we don't have to draft another charter and those things but again, I

don't think it's appropriate to put that in writing at this time but happy for clarification purposes.

MANAL ISMAIL, GAC CHAIR: Thank you, and yeah, we don't intend to put anything in writing but that at least when we respond to the board we don't surprise each other, we have a common understanding of what we really meant when we wrote the text. Yes, I think one is approved. I can see red next to 5, do we still have something pending in 5? So European Commission.

EUROPEAN COMMISSION: Just for clarification on point 5, I think it's deferred from Phase I.

MANAL ISMAIL, GAC CHAIR: I thought -- I mean while I was reading I -- okay. So it's deferred from Phase I. Thank you. So maybe we can now move on to the new text we have. So this is the beauty of Google docs so texts popping everywhere from everyone in different colors, so we now have blue text on the screen. I'm not sure who submitted it, but the text now reads the GAC has consistently advised on the necessity of finding a swift solution to ensuring timely access to nonpublic safety registration data for legitimate third-party purposes that complies with the requirements of GDPR and other data protection and privacy laws in view of the significant

negative impact in WHOIS accessibility on users with legitimate purposes. Any objections to the adding of data protection? And privacy laws? Okay. And then we have an additional sentence at the end it work reads the GAC will closely monitor and assess the progress reports prepared by the GNSO EPDP and reserves the possibility of providing further guidance if the pace of progress so requires. Any comments? Okay. Good. And we have red text. This is -- we're in the same section, right? Yeah, so the GAC is of the opinion that the ppsai, and I think we should write it maybe in full policy remains highly relevant and implementation efforts should continue as appropriate in parallel with the ongoing policy development work. Where privacy -- yes, Spain.

SPAIN: I'm sorry, the second sentence beginning with were, it's not really necessary, we could keep the first and third sentence only.

MANAL ISMAIL, GAC CHAIR: Okay. Thank you for noting this. So we delete the whole thing or just the second sentence?

SPAIN: Just like it is right now.

MANAL ISMAIL, GAC CHAIR: So the text would read now the GAC is of the opinion that the ppsai policy remains highly relevant and implementation efforts should continue as appropriate in parallel with the ongoing policy development work, the development of EPDP has no overlap with the ppsai nor does the implementation of the ppsai need to be deferred until the completion of the EPDP. Are we sure? I mean I heard otherwise, that's why I'm....

SPAIN: The temporary specification made no mention to the ppsai at all, the ppsai will probably not be addressed in the EPDP and in the final report of Phase I the only thing mentioned about the ppsai was that the status quo would be maintained to it seems that they are both [indiscernible] that they don't have no overlap because they don't address the same issues. One issue is the accessing of this data and the other the existence of this privacy and proxy services. Were the registries [indiscernible] a specific higher kind of privacy in front of law enforcement that is not endorsed by the privacy enforcement authorities and that really has been made into a point completely useless by the implementation of GDPR that dictates a level of privacy to be available to all physical persons.

MANAL ISMAIL, GAC CHAIR: Just to be clear, I have no problem with the text as it stands provided that it is a hundred percent accurate. Because as I told you, I heard that there is interdependency and that's why they are told this, so I'm just a little bit hesitant that we put something that is not accurate in the communique. US go ahead.

UNITED STATES: Thank you. Ashley with the US. So just to start, I'm supportive of Spain's intent here to reference the privacy proxy work but I have to agree this last sentence is not exactly accurate, in fact the entire reason why the privacy proxy implementation review team was paused is because of GDPR and the efforts of the EPDP so I think the simplest solution is deleting the last sentence, but I'm also happy to consider alternative language.

MANAL ISMAIL, GAC CHAIR: So would Spain accept this?

SPAIN: Yes, maybe it would be okay with you, [indiscernible] consider it accurate to keep the second part of the last sentence [reading]

MANAL ISMAIL, GAC CHAIR: Again, I would look to those who know better. Yeah, US?

UNITED STATES: The US supports that. I think that is consistent and correct.

SPAIN: Thank you.

MANAL ISMAIL, GAC CHAIR: So is everyone okay with the text as it stands on the screen? Okay. Then I think we can accept the text. And this is new text we haven't read before. It's on ICANN board consideration of the CCT review recommendations. The GAC notes with concern the recent board resolution in response to the final recommendations of the competition consumer trust and consumer choice review team which approved only 6 of 35 consensus recommendations. The GAC advises the board to, one, promptly meet with the CCT review team leadership to discuss the board's resolution, and two, consider the possibility of reconsidering certain decisions if agreed appropriate. Any comments? Just to note that when we met with the board they didn't really consider that the rest of the recommendations were rejected so they accepted -- I mean they said that the others were accepted but with certain conditions, things that are passed through and things that are pending other actions. But I can see people agreeing to the text on the screen so if there are no comments... can accept the text. Okay. So Fabien, can we accept the text? I have the rationale, the GAC is concerned that the

recent board resolution response to the final recommendations of the competition, consumer trust and consumer choice review team approved only 6 of 35 consensus recommendations related to important competition and consumer protection issues, the CCT review is the first completed by law mandated review after the IANA transition and serves as a vital accountability mechanism. We urge the board to promptly meet with the CCT review team leadership to discuss the board's resolution and consider the possibility of revisiting certain decisions if agreed appropriate. Any comments?

UNITED STATES:

I feel a bit awkward that I'm commenting on my own text, but I should have caught this before. If you could please insert stewardship after IANA, that would be appreciated. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. Any other comments? Iran, please.

IRAN:

For consideration of colleagues about the advice, recommendation, [indiscernible] mentioned this in detail, 37 recommendations, 6 of them approved. Some of them they were not because they were incomplete, lacking information. The remaining, the board said there are not in the remit of the board

so what we're asking the board to reconsider something which is not in their remit. So be sure this is [indiscernible] to them. Thank you.

MANAL ISMAIL, GAC CHAIR: US.

UNITED STATES:

Thanks, this is Laureen. So the advice here is specifically leaves room to act as appropriate, so we're not directing the board to do something outside its remit or indeed anything specific other than have a conversation and then act as people deem appropriate after that conversation, and the background here which we discussed in our briefing and I think Jonathan discussed also in his discussions with the GAC, is that some of the conclusions were based on misunderstandings or misinterpretations of the analysis and recommendation language by the CCT review team so that is why we very specifically chose this language to allow this latitude for further discussions and clarifications and then if appropriate, revisiting some of the decisions.

MANAL ISMAIL, GAC CHAIR: So can I maybe propose that promptly meet with the CCT review team leadership to discuss the board's resolution and act

accordingly if agreed appropriate? I mean, just to address Kavouss' point that we're not directing them to reconsider something -- I mean, depends on the conclusion of the conversations. I'm sorry, Lauren.

LAUREEN KAPIN:

So I do think it's important to include that word reconsidering, because that would be a technical path towards a different result by the board and I will note we are not directing them to do that, we are directing them to have a conversation and then consider the possibility. I feel accordingly a little vague and I did think it was important to include this specific mechanism as the possibility.

MANAL ISMAIL, GAC CHAIR:

Thank you, Lauren. Iran? Okay. Can I seek one more clarification again just that we are all on the same page? When we say here certain decisions, do we have certain decisions in mind or we can live without certain? I mean reconsidering decisions if deemed appropriate? I mean...

LAUREEN KAPIN:

I don't feel strongly about it, but I think if anything we say consider the possibility of reconsidering, that almost sounds like

we're asking to reconsider the whole thing. I felt certain decisions makes it narrower.

MANAL ISMAIL, GAC CHAIR: I take your point, US. Thank you. Any other comments? Okay. If not then can we -- yes, approved. So this is also new text on the subsequent procedures under follow-up on previous GAC advice section and the text reads the GAC recalls its advice continued in the ICANN 56 Helsinki communique which states that the development of policy on further release of new gTLD needs to fully consider all the results of the relevant reviews and analysis to determine which aspects ask elements need adjustment. The GAC advises the board to address and consider these results and concerns before proceeding with new rounds. Comments? Okay. Canada, please. Is the last sentence taken from previous GAC advice? So can we say the GAC advised the board to address and consider or is this a new advice.

CANADA: Thank you, Chair. Luisa, for the record. I guess -- yeah, we were actually a bit grappling with how best to express that text there so what was your suggestion?

MANAL ISMAIL, GAC CHAIR: The GAC advised the board if we're quoting from previous GAC advice?

CANADA: That could be one possibility.

MANAL ISMAIL, GAC CHAIR: Maybe you need to check the past advice. So let's leave it here and just confirm that this is quotation from previous GAC advice before we finalize. So I will stop here quickly. If you can grab any coffee, because I think it's the coffee break, and then please be back in 15 minutes.

[END OF TRANSCRIPT]