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ICANN69 | Virtual Annual General - GAC Discussions on Subsequent Procedures  
Monday, October 19, 2020 - 12:30 to 14:00 CEST

**JULIA CHARVOLEN:** Good morning, good afternoon and good evening. Welcome to ICANN69 – GAC Discussion on Subsequent Rounds, scheduled on Monday, 19th of October at 10:30 UTC. My name is Julia Charvolen from the GAC Support team. Recognizing that these are public sessions and other members of the ICANN community may be in attendance, the GAC leadership and support staff encourage all of you who are GAC representatives and delegates to type your name and affiliation in the participation chat pod to keep accurate attendance records as well as for comments and questions to be read aloud.

The Zoom room is equipped with a chat feature, at the bottom of your Zoom window on the right. If you would like to ask a question or make a comment please type it in the chat by starting and ending your sentence with a <QUESTION> or <COMMENT> as noted in the chat. I will put occasional reminders of this request in the chat throughout the session.

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If you wish to speak, please raise your hand in the Zoom room and once the session facilitators, myself or Julia, calls upon your name, please unmute yourself and take the floor. Remember to state your name for the record and the language you will speak, if speaking a language other than English. Please also speak clearly and at a reasonable pace to allow for accurate interpretation. When speaking, make sure to mute all other devices including the CRN application.

Finally, this session, like all other ICANN activities, is governed by the ICANN Expected Standards of Behavior. In the case of disruption during the session, our technical support team will have to mute all participants. This session is being recorded and both recording and transcript will be available on the ICANN69 Meetings page.

It is now my pleasure to hand the floor to the GAC chair, Manal Ismail. Manal, over to you.

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MANAL ISMAIL, GAC CHAIR: Good morning, good afternoon, and good evening. I understand we will be joined by Jeff Neuman and Cheryl Langdon-Orr, co-chairs of the subsequent procedures' PDP working group. We have 90 minutes but so many things to discuss in light of recent developments and GAC collective input. So without any further ado, allow me to hand over the floor to get us started. Over to you, Jorge.

JORGE CANCIO, GAC VICE-CHAIR: Hello, everybody. I hope you hear me clearly. This is -- and you see me also. This is Jorge Cancio from Switzerland, working from my home. I hope you are all staying safe in these times of COVID-19 pandemic and that you are following this session. As you see in the agenda, we will going to discuss three points. First of all, we will shortly review recent developments on subsequent procedures by new TLD's, including recently issued GAC consensus comment by the GNSO working group full time report.

Secondly, we will have as in other occasions, the chance of having with us both Jeff Neuman and Cheryl Langdon-Orr, the co-chairs of the GNSO subsequent procedures working group. And to see with them what are the latest developments also and especially whether they have already any feedback or input to give us on the GAC consensus input on. And finally, an overview

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of the possible next steps on this issue on subsequent rounds, especially in the months which span from now to the next ICANN meeting which is scheduled in March 2021, if my recollection is correct.

So without further ado, I think we could go into the first item of the agenda. Next slide. Recent developments. I think you are all aware of the collective comments on the draft final report we submitted on September 29th. In these collective comments we summarized in consensus language the positions from the GAC on various topics from the draft final report. We did this in [indiscernible] fashion, starting in August 21st, sent out a call for inputs to the whole GAC membership. Based on the inputs received during three weeks, the topic lead together with our chair, Manal Ismail, and of course with the help of GAC support staff prepared a draft, GAC consensus input which was then sent again for consultation to the GAC for more or less one week consultation time for receiving remarks on the text of this draft consensus input. We received several remarks which we factored into the final draft of this GAC consensus input which was again he put sent for full time objections or checking typos during three or four days.

After this period on September 29th we could verify that we had consensus within the GAC for filing the input, and we did so in

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due fashion before the deadline for filing public comments on September 30th. We think this period of public comments which I guess that Jeff and Cheryl will also expand on, it is noteworthy that also the very substantive comments were filed by the ICANN board itself through a letter to the PDP working group on September 30th and in addition, as ICANN org submitted comments to the PDP working group [indiscernible] on September 30th.

So I will stop here in case there are any questions on these aspects. And please, staff, let me know if there is any hand up, any comment which you should draw my attention to. I see we have around 160 participants. So it's a bit difficult to check everything at the same time. But I don't see any.

Regarding the GAC public comment input, I think most of the content of this input is based on long-standing GAC positions on some of the issues we of course have evolved, fleshed out, or positions on closed generics where we have reacted to some of the thinking going on in the PDP working group which is reflected in the final draft, and there we have gone into more details on which might be the direction of work which would be consistent with the GAC advice from the Beijing meeting in 2013 according to which closed generics if admitted should serve the public interest -- the public's interest.

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We have also given more input on the recommendations regarding GAC early warnings and gas consensus advice which -- GAC, which as you know, are the main extremities with which GAC intervenes whenever a new round started. We have delivered or detail on the direction we would ask the GAC prefer in regards community based applications where for instance the definition of communities could still be rethought or where the criteria to be followed by community priority evaluation could be fleshed out in a better fashion. So there is a number of details and of inputs we have put into this GAC consensus input. I hope you are all aware of those. And perhaps before going into the exchange with the co-chairs of the PDP working group, it is worthwhile to look a little bit also into the inputs from the ICANN board we have just referred to.

So if we go to the next slide we see that predictability which is one of the topics that also the GAC commented on the board goes somewhat in a similar direction, encouraging the PDP working group to provide as much detail as possible, also to ensure clarity around the roles of the GNSO council and other players in this process. It also encourages the PDP to consider whether the proposed SPIRT, the predictable framework, the framework process is really the right one or establishing the right balances and whether it is worthwhile really creating this

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as a new process so in a similar fashion as to what the GAC had expressed on its input.

On public interest commitments, or pic's, there is an interesting point made by the board asking or raising the question whether the public interest commitments are fully consistent -- or future - - would be fully consistent was bylaws of 2016. The next slide, we also see closed generics is one of the items that the board touches upon. And regarding GAC consensus advice and early warning, the board is somehow diplomatic and ensures its commitment to working closely with us, with the GAC, to encourage advice prior to finalization of the applicant guidebook forward to reduce if not eliminate the need for wide ranging advice after the round is started.

Finally, on the next slide, you will see that there is also substantive input from the board regarding community application and is on auctions which to a certain extent also align with GAC inputs or at least don't go into a different direction than GAC input. So it will be also interesting to know later on in our second item of the agenda what the reactions from the PDP working group are on these inputs from the ICANN board.

So finally, on this first item, if we go to the next slide please. We see that Jeff and Cheryl will update us on the plan on the PDP

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working group now that the comment period is closed. Both last week in the framework of ICANN69 but also in their regular PDP working group meetings to meet and analyze of course inputs which have come in during the public comment period and also from GAC and the board and they are aiming to finalize the final report in December, undergo the consensus call also in mid December with a view to submitting the final report in its updated fashion before the end of the year.

So I think this is very quick overview of the latest recent developments in this very huge file. I will pause here for a second to see if there are any comments or anyone from the GAC members or observers wanting to take the floor. I don't see any. So if this is not the case, I think we should profit as much as possible from Cheryl's and Jeff's presence in our meeting, and I would then pass the floor to Luisa, my fellow vice chair and top lead on subsequent procedures, Luisa, the floor is yours.

LUISA PAEZ, GAC VICE-CHAIR:

Thank you, Jorge. This is Luisa Paez, one of the GAC vice chairs as well as the GAC representative of the Canadian government, and it's really wonderful to be here today with Jorge and one of the other topic lead. And thank you, Jorge for providing us an overview in regards to the GAC collective input into the public comment



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period as well as highlighting some of the key points that the ICANN board and ICANN org have made to be to the public comment period via a letter.

So this item we really want exchanges with the PDP group group, both Jeff and Cheryl, thank you for being with us today as well as the collective engagement over the past years or so. So here we wanted to give you both an opportunity -- we know there was a recent PDP working group meeting on October 14th. And so we would like if you could provide a quick overview, focusing on the topics here on the slide which I think were the ones that were supposed to be covered in the PDP working group so predictability, closed generics, applicant support, auctions, community application. And then perhaps we can also have an opportunity to discuss with you if there were any particular comments or reactions in the PDP Working Group in regard to the GAC collective comments and as well as Jorge mentioned earlier, anything you would want to share or raise with us in regard to the PDP working group comments that they had in regard to the ICANN org input as well as the ICANN board. So I would now pass it on to either Jeff or Cheryl, and again, thank you for being here today. So I will stop there. Thank you.

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JEFF NEUMAN:

Thank you, Luisa. This is Jeff, and I figured Cheryl was going to point to me, so I will start and Cheryl will jump in. First, want to thank everyone and the GAC for inviting us in. I can't remember how many meetings this is -- somewhere around 13 in a row or something like that, but over the last four years or more, it has been a pleasure for us come into the GAC meetings and hopefully to have started something that I think should continue with a lot of policy development processes which is improved and increased dialogue between the GNSO and the GAC. So happy to say hopefully we started a trend, Cheryl, and thank you to the members of the GAC for being so welcoming to us and for providing these or this opportunity for us to make comments.

And I wanted to thank you all and as well a lot of the members of the community. I mean, we had some really extensive comments from a number of groups, and it's clear that the GAC, that you all and the ICANN board and ICANN staff took a lot of time to write these comments. And I know it was a very short amount of time we gave you, but the amount of detail in the comments and what you all did in such a short period was amazing. So thank you for that.

So with that, a general update -- let me go back a step. So we received somewhere around 50 comments to the draft final report, and that includes the comment from the GAC but also

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includes from ICANN org and the ICANN board. But a host of other organizations and from the ALAC and each of the GNSO constituencies and stakeholder groups. And we plan on having this summary of all of the comments out -- actually there are there's summary of a bunch. Comments already out and I will ask someone from ICANN staff to post that public comment to a location if they can, but we will have them all out and done by -- today is the 19th, so the 21st on Wednesday hopefully we will have all of the comments that we have received and summarized and put into an easily readable document that is separated out by topic and in general position. Because if you try to read the comments because we used Google forms, it's just a big spreadsheet so ICANN org, our policy staff, Steve, Emily, and Julie have just been fantastic in putting this all together. So we actually started reviewing the comments -- I believe it was last week. I might be getting my weeks mixed up. But we start looking at the ICANN board comments first because of some foundational issues they raised in their comments. And I think two of them were pointed out by Jorge. I also want to draw your attention to another one that the board filed which is -- well it's in the same letter but it was on the topic of applicant support.

There was a point emphasized by the board that they are not at grant seeking organization so their ability so solicit fund from

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other organizations outside of ICANN is quite limited because of their mission and because of their nonprofit status in the United States. So that may have an impact on some of the recommendations that we made which were that ICANN should help financially support the applicants not just in the application fee and potential Leon going registry fees but also in fees for third party services like if they needed help drafting applications or needing advice from financial or legal advisors, there is a limit that the ICANN board mentioned in their comments as to what they can do. But that being said, ICANN still is in their letter committed to helping with what they're calling the pro bono assistance program, I think is what they call it or something like that where they can help applicants match up to other provider that provide these services. So even if they can't financially contribute, they can certainly find vendors that can help out and provide services at hopefully a cheap or even pro bono no cost. So that is another comment probably worth paying some attention to because I think there are some comments that the GAC has filed on the importance of applicant support.

So the meeting on October 14th last week we actually did not get to all of those topics. And in fact we took the topics in a little bit different order because we wanted to make sure we covered during an ICANN meeting some topics that we didn't necessarily cover at previous ICANN meetings but still were important. So

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we put applicant support as number one on the list. Again, it's always been on the list but we seem to every time we get to applicant support, it seems to be one of the last topics and never really give it the time it deserves. So I think we had a really good discussion on the comments received on applicant support, there is overwhelming support for the applicant support program within the community and in the just one the GAC board of course but throughout the community and I think what some of the community members are calling guardrails just to make sure that even though we're providing assistance to these applicants that they also still demonstrate that they can securely and safely and reliably run a registry. So we spent some time discussing those comments.

With respect to community applications, we also spent a bunch of time in the last few weeks and even during the public comment period talking about community applications. And I am pleased to say there symptoms to be wide support within the community that looked at the guidelines that came out from the evaluators of community priority evaluation and to look at those more closely because I think the working group and much of the community agrees the criteria, the Eiu, economic intelligence unit, I think -- the criteria they used really were skewed or biased in favor of economic type communities as opposed to the grouping of other communities whether they're language,

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human rights, linguistic, cultural, all sorts of other non-economic communities. And we have been spending a lot of time talking about how we can make it more attractive for the non-economic communities to actually get community status and therefore get priority if there is contention over a string and one of those applicants is a community application. So that's something we spent a lot of time.

Closed genericss will be one of those tough ones. As you probably saw in the report itself, that there is really no agreement within the community of how that should be handled. We will give it a go again to see if we can get the working group to get on a potential solution. But it's one of those areas that just different groups have stuck to their guns and have not necessarily wanted to compromise in a way that Cheryl and I were hoping that we would come together.

I do think there are a number of people that support something in line with what the GAC had advised way back in Beijing, I think it was, where a closed generics should serve a public interest goal. So there are certainly a bunch of groups that support that notion. So if you read the draft final report you will have seen two additional submissions, one from George sEdoksiki and Cathy [indiscernible] and Allen -- and one I submitted in my personal capacity on seeing how we could operationalize or

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formalize some sort of program where we would check that an application serves a public interest goal.

Again, it's way too early to tell whether the group will come together on one of those solutions or something in between, but it's certainly something that we will address again relatively soon. And I think just as a last point before we sort of get to questions, I know I have been talking for a long time -- I think a lot of the comments submitted by the GAC has a good amount of support within the working group, I also already mentioned the community applications applicant support. I think predictability is almost there. I think the GAC comment on setting out or further defining what role the GAC could play in the future is a great comment and something that we have taken note to try to do in the final report. So I think that there will be some support for that. Although it's again, I have to make the caveat that although Cheryl and I are co-chairs, we can't really speak definitively about the group and where it will come out but we certainly have hope. So I will stop there and see if Cheryl wants to add anything.

CHERYL LANGDON-ORR: No, Jeff, I think you have pretty well covered it although I would reiterate that we're very early until our post public comment process. So, as a group we've not really got our teeth into any of

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the discourse that is normally associated with the public comment review which we will be doing. And of course with the tools we're using and the link -- thank you very much, Julia, it has been put in chat -- that will always connect back to the completing complete inwe got from the public comment. So there is no cutting out or shortcutting or under representation of any of the public comments. They're all fully reviewed and managed in our normal post public comment review process, which I know Jorge and many of you in the GAC have of course been a part of in our past several meetings., been quite a few with community and public comments as we have gone through our years of work together.

I guess to echo what Jeff has said, I think it's been a fruitful and affirmative process with the GAC, because of your ongoing engagement and involvement during the process and I want to call out again how much we value from GNSO PDP (distorted audio) perspective, been able to give us throughout. That's about it for now and over for questions and any other interactions.

LUISA PAEZ, GAC VICE-CHAIR:

Thank you to both Cheryl and Jeff and on behalf of the GAC, wanted to recognize your tremendous efforts on co-chairing this PDP working group and as well



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recognizing the tremendous effort as well from all the participants from the ICANN community that have taken part in the PDP working group throughout many years and obviously more intensely and actively in recent months to get out the draft final report and as you mentioned Cheryl, early stages of compiling and analyzing and discussing all the public comment period which you mentioned were around 50 submissions. So obviously there's still a way to go and again, we want to recognize the tremendous efforts currently being taken within this PDP working group. And we can attest that the breadth and depth of issues.

And again, pausing here to see if any questions or comments from our GAC colleagues. We want to take this opportunity as we have, Jeff, and Cheryl, if there are any items you would need clarification, we encourage you to do so or of course we can continue the exchanges as well.

So I will stop a little bit just to check if any comments or questions in the chat. And also wondering in regards perhaps Jeff and Cheryl the last item here on the slide if you could provide an overview in regards to the next steps for the PDP regarding the drafting or finalizing the recommendations. I do know we were going to cover a little bit of the process in the next slide but perhaps you can get us started. Thank you. If there are

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no other questions regarding -- I don't see any comments or questions as of now on the substance. Thank you.

JEFF NEUMAN:

Yeah, so this is Jeff, and then I will turn it over to Cheryl. I think Jorge's slide pretty much summed it up. We're still planning on delivering the final report ultimately to the council by the end of December, the end of this year, and the time between now and then will be to finalize all of the materials, finalize the recommendations, and the second to last step were -- or the last step before sending it to the council is going to be doing the consensus call which is, as you all know now having gone through the EPDP, that's a stage where we will then ask the members of the Working Group to weigh in on each of the recommendations.

The only thing a little bit different than the EPDP is that this working group is open and it was not structured in such a way as the EPDP, which was by constituency stakeholder group SO/AC, so that you got a chart at the end of the EPDP a few weeks ago that said this group supported it, this group didn't agree with it, and then you had that easy chart. Here it's going to be with this working group. It's going to be by members of the group unless some members of the group have the authority to speak on behalf of a constituency stakeholder group or advisory

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committee. But if not, then it will just be a lot of -- it will be a bigger chart, I should say, of those that agree with the recommendations or can live with the recommendations. And I envision also will have -- I think has not on this chart, of course there will be a call for minority views as well that can be published in the submission that goes to the GNSO Council. So that will happen between the 17th-23rd. After that the report goes to the council, and then the council will take it up. And I don't know where they will be by the time of the next ICANN meeting in March, but in theory if it was moving according to a timely schedule in theory it could be delivered to the board in the first calendar quarter of next year at which case the board would then take it up and have another public comment period that they always have for these types of policies that come out of the GNSO, and you will have another chance to weigh in. Sorry, Cheryl, go ahead.

CHERYL LANGDON-ORR: I was just going to say with the advantage of course particularly from the GAC's perspective, indeed, any of the advisory committees as well is the opportunity of course then comes into play as an advisory committee to give any such advice on the final report directly as advice to the ICANN board notion any

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input you or anyone else may wish to have in any final public comments.

I suppose Jeff, the other thing on the screen now, during that October to mid December period as we have already done even with a letter from the board, Jeff and I have written back to the board and asked clarifying questions on behalf of the PDP working group. So if there is any particular unclear aspect or points that remember additional clarification or any clarifying question when we go through the government advisory committee public comments, we will reach back out to your key people and see in that space if there is anything that we need to also take into account just as we have already done with the board and the board letter. We have asked a yum questions already on that and the same goes for any public comments that come in, not just the board letter and public comments from the advisory committee and the [indiscernible] you will notice not a lot of time in the schedule, however. So what that means, it's not going to be a matter of during the meetings the work will be done. During the meetings work will be done but it will be consolidation of work done on of on our list, email and each session lead would [indiscernible] between one week and the next session, but I think that's about it in terms of additional information.

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JEFF NEUMAN:

I think I have two other quick points. One -- and I think I saw there was a slide talking about it during the opening GAC plenary session, on the operational design phase document that was put together by ICANN staff. That had nothing to do with the SubPro working group but what I would say is that one of the reasons why that document has come out is to apply to things like subsequent procedures. I know that everyone is thinking about the operational design phase in connection with EPDP and the SSAD system. But I would love to just give it a plug for thinking about it in connection with subsequent procedures so that ICANN can make sure that when the issue does get to the board about starting the implementation that they understand through this operational design phase more of the organizational requirements and more of an understanding exactly of what this is that the ICANN board is approving when it moves forward.

So I do want to just have -- put in a plug for that. And if I had one question on the specific GAC comments, on the issue of -- you noticed in the draft full time report we did recommend adopting the GAC advice on the safeguards for highly regulated strings. And in the comments -- in the GAC comment of the subject subsequent advice that the GAC gave believing that the board's implementation of the GAC advice was -- and these are my own word, I think -- was not strong enough. So the question I would

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ask about that, if there are any of the highly regulated strings that the GAC has noticed some issues with in terms of how it was implemented and any resulting harm that has been seen or any kind of examples of things that we can bring to the working group so that they could -- so there is tangible evidence we can point to about those safeguards not being strong enough in highly regulated TLDs. I think that's one area if you have input on, we would love to see that. Thanks. Is Luisa there?

LUISA PAEZ, GAC VICE-CHAIR:

Sorry about that, I had to double unmute myself. I was just thanking you, Jeff, and Cheryl, again for participating in this session for the great engagement we have had inter-sessionally and in previous ICANN meetings. And Jeff, in regards to your last two items, was taking note of that. So thank you for highlighting in regard to the sign [indiscernible] phase as well as the GAC safeguard and implementation. So we are taking note of that. And then just -- again, a big thank you. If there are no other comments or questions at this point from GAC members or...

MANAL ISMAIL, GAC CHAIR: Luisa, I'm sorry to interrupt, Manal speaking here. I see a couple of hands. There is Jorge and Vincent.

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LUISA PAEZ, GAC VICE-CHAIR: Yes, Jorge please, go ahead. Thank you.

SWITZERLAND: Yes, thank you. Thank you, Luisa. I will defer to Vincent, because I was trying to break the ice but I will have a couple of questions after the intervention from France, thank you.

FRANCE: Yes, hello, this is Vincent Guillard From France. Can you me hear me okay?

JULIA CHARVOLEN: We can, thank you.

FRANCE: Hello, I may have a loudspeaker problem.

MANAL ISMAIL, GAC CHAIR: We can hear you.

FRANCE: Great. Thank you. So this is Vincent Guillard from France, for the record. First allow me to thank Jeff and Cheryl, the report is

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a solid one upon which to build the next round. I would just like to inform you that two reservations that we have in France concerning the SPIRT and the strong presumption clause. I would like to make a comment on the former and ask questions for Jeff which to Jeff and Cheryl on the later. We regret that the GAC would not be refer matter to the SPIRT directly when they would instead have to issue GAC advice to the ICANN board asking it to refer to refer to matters of SPIRT. We believe it would be useful and perhaps logical that all SO/AC's be able to refer matters directly to the SPIRT, and we also fear that going through GAC only that any GAC advice after launched must be passed on to the SPIRT.

So we would be in favor of allowing GAC to refer matters directly to the SPIRT or as alternative to make this clear final report apart from asking explicitly to refer matters to the SPIRT, to solely the ICANN board and not to be passed onto the SPIRT.

Concerning the strong presumption clause, we are not also in favor of removing it. Well, I think that opinion is shared with many GAC members, -- and I know this is a rather wiki subject with divergence between views which we have discussed pretty much already so sorry to put it back on the table. But we would sincerely appreciate information on why to have this include removed. France doesn't understand that the applicant



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guidebook should absolutely reflect language in the bylaws. Perhaps I have missed important information, and please correct me if this is the case but as far as we know in France we have seen no detailed explanation for this, for us as long as the applicant guidebook does not contradict the bylaws, we see no issue here. So if Jeff or Cheryl would like to comment on this, we would be very happy. And thanks again very much for your tremendous work.

JEFF NEUMAN: Luisa, do you want us to take questions or --

LUISA PAEZ, GAC VICE-CHAIR: Please go head, thank you.

JEFF NEUMAN: Sure. So first on the SPIRT -- and thanks for those comments. We never thought of -- I'm not sure we thought of the referrals to the SPIRT in that way. So it's a good perspective to hear, and we will certainly pass that onto the group. Because I don't think we have heard it referred to that way and it certainly wasn't trying to create any presumption that everything, all GAC advice had to be referred to the SPIRT. So thank you for making that comment and we will certainly discuss that within the group.

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On the second item, on the presumption that is in the applicant guidebook, the working group spent a lot of time on this, and I think some of the rationale is in the draft final report there is a lot more detail I believe in the initial report. But because we didn't want to make the draft final report more than -- it's already several hundred pages -- we saved a lot of the repeat material or stuff we had for the initially report, didn't want for necessarily repeat it. But with a strong presumption, there was a feeling within the working group that having that additional presumption in there basically, it acted as a stumbling block for the possibility of trying to work out the government concerns on particular strings in a manner that didn't result in the non-delegation of a string.

And so the working group discussed that there would be much more -- since the goal of any new gTLD program is to find ways to enhance competition, promote innovation is to try to find ways where we could compromise and get some of these strings in the root if there is a way to address the GAC concerns. But having a presumption against delegation was an impediment or at least the working group members believes it was an impediment to try and find that solution because if there were certain members of the GAC that let's say just didn't want to engage in those discussions, then it could effectively prevent

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that string from going forward, even if the applicants were trying to make an effort to satisfy the government's concerns.

So there were also concerns within the working group that the presumption essentially amounted to a veto write, that essentially you have an advisory committee that could veto any application simply with its advice, and that was not seen by the working group as operating in -- or was not encouraging the multi-stakeholder model to try to find solutions.

And then the last reason is part of the reason the presumption was put in there because at the time in 2012 the ICANN bylaws did not contain any kind of threshold that GAC advice had to be adopted and there was certain a lot of clarity added after the bylaw revisions of 2016.

So all of those put together just really within the working group just amounted to let's rely on the bylaws, let's encourage working out issues because we're allowing changes to be made to applications as a result of objections and early warnings and public comments. So this just seemed to fit in the whole big picture of encouraging compromise and finding ways to allow these strings to go forward while at the same time addressing the governments' concerns.

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LUISA PAEZ, GAC VICE-CHAIR:

Thank you, Jeff. And then I'm just wondering, Vincent if you have any other comments. If not, we can pass it along to Jorge from Switzerland. Thank you. Wonderful. Thank you, Vincent. I see here on your chat. And thank you, Jeff Neuman, as well for elaborating on the answer. And Jorge please go ahead. Thank you.

SWITZERLAND:

Hello, I am trying to unblock my camera. Yeah. Now I have it. And apologies in advance if the background is noisy, but we have some work going on here so I'm very sorry, I hope you hear me anyway.

Just on what Vincent said there is some GAC consensus language on both on the SPIRT and the GAC early warnings and consensus advice. You will notice some of this language begins with some GAC members. So that means those are positions of a number of GAC members that have been embedded into a text that counts with GAC consensus. So it is the position of some GAC members but within the formulation that counts as the whole GAC input with consensus from the whole GAC. So that's just for your information and the orientation of the discussions within the working group.

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Then I would, taking into account that we still have some time, I would like to ask you the question on what is your current thinking, especially after the discussion, that you had in the PDP working group last week on how to react to the question or the remarks made by the board regarding to what extent new or public interest commitments or registry voluntary commitments might be limited or might be in contradiction to a certain extent with the new definition of the mission established in 2016 in the bylaws, and how do you intend to manage this in the PDP working group, whether you already have some orientation on this.

Because as you know, public interest commitments are of course a very important instrument and also voluntary public interest commitments are an important instrument in furthering public interest goals. They serve also in order to address concerns in GAC early warnings and GAC consensus advice in 2012 round. And of course from a GAC viewpoint we are absolutely aware that the bylaws have to be abided by but also the bylaws have a lot of nuances in this respect and they also go beyond the mission statement and includes other very important aspects that might be interesting in order to address some of the concerns expressed for instance by the board but also by other stakeholder when for instance the balancing tests of the different core values has to be done, whenever the board

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takes a decision, and those core values include of course also the human rights core values.

So I would be interested in knowing a little bit of what is your thinking. Because this is of course a comment from the board that has a lot of impact and as you explained Jeff, and Cheryl, last week, it also goes beyond [indiscernible] it would also affect possibly closed generics and other aspects of the final draft. So I leave it at that and I hope you were able to understand what I was saying in spite of the noise.

JEFF NEUMAN:

Thanks, Jorge. And we didn't hear the noise really so it came out well. But -- so yeah, thanks, Jorge for starting us off on an easy question. So I will offer a big disclaimer here by just saying that the working group has just start discussing this issue, the comment from the board came -- it's not something that has been raised before the board sent that letter so we're all still trying to understand and get clarity. Cheryl and I have sent an email to the two board liaisons for the subsequent procedures group, [indiscernible] and Becky Burr to ask them some clarification on their comment.

When Cheryl and I and the leadership team were reviewing the comment initially, we just asked ourselves the question of why

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was the board automatically jumping to a conclusion that enforcing the public commitments or registry voluntary commitments, why was it assuming that that would amount to some sort of content regulations which was the element the board was concerned about exceeding their mission in the bylaws. We tend to view it or some members of the working group tend to view it as the ICANN board enforcing commitments that are made by the registry, especially the voluntary commitments. So it's not ICANN as an organization, at least with the voluntary ones, forcing the registries to adopt some sort of content standard, but rather if a registry says it's going to have a highly sensitive, highly regulated string and require each of its registrants to have licenses, well that's something the registry has voluntarily agreed to do and therefore ICANN is not judging a registry as to the types of licenses it requires or -- but rather just making sure that the registry is doing its job.

So that is the clarification, the kind of clarification we asked ICANN -- well, Becky and avry to help provide us with. The other thing I think is important for us as a working group and what children and I sort of floated by the group last week. In some ways the determination of whether pics or new pics or new commitments violates the bylaws. That's not really a relevant line of questioning for the working group itself. The working

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group is trying to figure outline from bottom up multi-stakeholder what the community wants as its policy. And then it's really at that point is when the board would need to make a determination as to whether it fits into the current mission. And if it doesn't, for whatever reason, it's at that point the board could seek to expand its mission in terms of an amendment to the bylaws through community processes.

So I think from our view, from the leadership view and not the working group view, by my means because we're just starting to think about it. But at least from my perspective, let's take the time to figure out what the community wants us to do. So if the community overwhelmingly wants to allow registries to make commitments and wants ICANN to enforce those commitments, well it will be ICANN's job, the ICANN's organization's job to figure out how to get it done.

We could spend a lot of time rehashing the debates prior to 2016 when the bylaws were changed. But I'm not sure at the end of the day that gets us any further in where to go. Because at the end of the day, it's only the ICANN board along with their legal counsel that determines, that have fiduciary duties to the company itself, the organization, to determine what is and what is not within its bylaws. Not for the community to determine whether something does or does not violate the bylaws. It can



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challenge through the community or through accountability mechanisms but at the end of the day it's the board's determination.

So asking the working group for our thoughts as to whether it violates the bylaws was to me a little bit -- it was a little strange for us to get because that's not really our role. Our role is to figure out what the community wants and how we can make the process better. And hopefully the board and ICANN org can might go out a way to make it happen. Even if that means us as a community having to do an amendment to the bylaws if the community really wants these public interest commitments or voluntary commitments in place. So I hope that helps. I don't know, Cheryl, if you want to add.

CHERYL LANGDON-ORR:

Jeff, I don't think I need to add anymore at this stage but we do keenly look forward to the formal response and [indiscernible] explaining from her perspective as best she could at our meeting last week but she and Becky will be presumably getting back to us with more deep analysis and we're certainly going to stick to our [indiscernible] and not take on anything further than our own mission.

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LUISA PAEZ, GAC VICE-CHAIR:

Thank you. Luisa here. Thank you both, Cheryl and Jeff, and Jorge, for that important question. So being mindful of time. If there are inert questions or hands raised. Perhaps as well check close this agenda item. And thank you, Jeff and Cheryl, again for your participation, and we look forward to continuing the good collaboration in this next meeting as well as in the next months to come.

So now in this next slide I will pass it on to Jorge to focus a little bit, the idea of this slide is to which the conversation with the GAC in terms of how best we would like to organize ourselves and what are the different perhaps points or opportunities for the GAC to continue to engage in the subsequent procedures PDP. So I will pass it onto Jorge.

SWITZERLAND:

Thank you very much, Luisa, and thank you from my side to Jeff and Cheryl. I hope in the next months to come, if you have any questions, any doubts on the GAC input, be it the last one or also prior GAC inputs on subsequent procedures that we may touch base very quickly and try to seek clarification, solutions, whatever is needed. I think we, as you said, Jeff, we have a very good working relationship, and of course if there is need to further elaborate on GAC input we will involve the GAC as a whole in that effort. As you know, this might take some time but

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as we showed with the public comment input, we are also able to stick to short deadlines if we organize efficiently.

So having said that, I will look on the slide about next steps. As Luisa mentioned, these are more or less the next intervention or action, opportunities for the GAC in the next weeks and months and also days of course. The elements for the ICANN69 communique as always, Luisa and myself with the support of Benedetta will try to summarize the discussions we had today and put it into communique language in order to have a recollection, a written recollection and summary of what were the main discussion points today during this session.

This is always very helpful later on in order to also see what are the paints of main attention for GAC members and also what were the main points of the discussion. So going beyond ICANN69, as we have heard before --

JULIA CHARVOLEN: Jorge, sorry for interrupting. I can see Suzanne Radelle has her hand up.

SUZANNE RADELL: Hello, everybody. Thank you, Jorge and Julia. Because you have mentioned the ICANN69 GAC communique text, I thought it

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might be a timely minute for us to share an idea that we have developed. It happen wasn't officially part of our discussion this morning so my apologies in that regard. However, we have been very mindful that the GNSO SubPro itself as we all any has determined that it should not address the issue of DNS abuse for just new gTLD and that it has communicated its thoughts to the GNSO Council that DNS abuse is a much broader issue affecting existing gTLD going forward than new ones.

So we thought this might be a timely moment to refresh the record. as we know, [indiscernible] has flagged concerns over DNS abuse many times but in the board resolution extending the contract for Göran Marby, there is an explicit reference to the importance of allowing Goran to continue his work on DNS abuse matters. So it struck us as a useful opportunity to simply say in the communique that we continue to feel strongly this is a very important issue and we look forward to working with the ICANN board and community to put some meat on these bones. So just wanted to flag that for people. We will be tabling some proposed language. Thank you.

SWITZERLAND:

Thank you so much, Suzanne, and good to hear you in this meeting. You always thoughtful to hear your input from your side. And this was input regarding the final draft report so very

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fair to raise this here, and looking forward of course to your proposed text for the GAC communique of this meeting.

So I wonder whether there are any other requests for the floor? If there are none., and beyond the communique language we will be preparing and looking forward to the text to be proposed by the US. As I was saying the next opportunities for GAC input are advice and subsequent procedures probably the ones you see on screen. Of course as mentioned before with Jeff and Cheryl, if they have any sort of questions, clarifications, requests regarding prior GAC input, they are very much welcome to reach out to Luisa and myself. And depending on the need to involve the GAC membership as a whole, we might engage in rich consultations with the GAC. And if there are questions we can as topic lead answer on our own we will do as best as we can. Otherwise, as soon as the financial report is delivered to the GNSO Council, we have of course an opportunity to reach out directly to the GNSO Council and express any remaining concerns following the review of the final report.

So this might happen in between the end of December or January. We will see how the working plan of the PDP working group unfolds and of course have a very watchful eye on those developments. So once the GNSO Council considers the final report, this would be in early 2021, they will adopt hopefully the

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recommendations and send them to the ICANN board for review of the final report and there of course and as is foreseen in the ICANN bylaws we have the opportunity of delivering GAC advice on the policy topics of the final report, stressing if need be, any of the issues that have not been resolved there according to GAC prior inputs. So we will see when this might happen. It could be already around ICANN 70. So we will keep you posted on that. And finally, once the final report is adopted by the board there is the whole implementation phase most probably with an implementation review team and at that stage we will need to also see how the engagement by the GAC is fashioned and who is able to follow the work of the corresponding irt. Because as you all know, the implementation of this huge policy framework which is been prepared by the PDP working group will be a very huge effort in itself and take many months to be accomplished.

So I will stop here and see if there is any further comment or question on these next steps. Of course for any GAC members, be it new ones or more experienced ones, if subsequent procedures is a topic of your priority, your interest, you are very welcome to join the focal topics leads team which is composed today by Luisa and myself and join efforts with us, be it on all the topics or on some of the topics which might be closer to your hearts.

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So I will stop for a moment. I don't see any requests for the floor. In some case, I think we have had quite a deep overview of what are the repeat developments, what is the current stage of discussions and especially regarding GAC inputs and what are the next steps in the coming months. I would then consider this session closed and would pass the floor back to Manal.

MANAL ISMAIL, GAC CHAIR: Thank you, Jorge. So again, thank you very much Jorge and Luisa and Cheryl and Jeff and to everyone for your attention and participation. It is now time for a 30 minute break. After the break this is the discussion with the community scheduled for 90 minutes schedule before a 30 minute break. So welcome that and we will reconvene at 9:30 tomorrow for our meeting with the board. Please be prompt and allow time to connect with the Zoom room and the real-time interpretation platform.

Lastly, please be reminded that the GAC leadership will make themselves available from 15:45 to 16:15 UTC for those challenged by the time zones and would like to catch up sessions they missed.

Thank you very much, this concludes our meeting for today. Have a good rest of the day. The meeting is adjourned.

**[ END OF TRANSCRIPT ]**