
ICANN72 | Virtual Annual General Meeting – GAC: Communique Drafting Session (5 of 5)
Thursday, October 28, 2021 – 10:30 to 12:00 PDT

MANAL ISMAIL, GAC CHAIR: Thank you very much Gulden and thank you everyone for your patience. We now have the communique on the screen, and I would ask that we go to the advice part. And just to note that we have 45 minutes to hopefully conclude the communique, I hope, and I'm starting with the advice part and I will reiterate where we left, we had three different views, one, to keep everything related to SSR2 under GAC advice, another related to SSR2 under the issues of importance to the GAC, and a third opinion, that could live with number 8 under advice but certainly B and C under issues of importance to the GAC. And I see Kavouss' hand up, please go ahead. (No audio)

Kavouss, if you are speaking, we cannot hear you.

MANAL ISMAIL, GAC CHAIR: Now we can hear you.

IRAN: I proposed the following course of action: Number A, or vase A, it seems that there is no -- advice -- it seems there's no major difficulty if small changes could be made. So let's clear that first and not rush to push everything to the important issues for GAC. So could you kindly go through A and see -- I don't have any difficulty with the advice itself.

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I have some suggestion for the rationale, and that is the fourth line from the bottom. The Board should commit to prioritizing different actions. I suggest that the Board is expected prioritizing different actions, not commit. That's all. The Board is expected -- is expected, yeah, -- to prioritize, not prioritizing -- to prioritize a different action. With that, Manal, I suggest that if you kindly agree, put the advice with the rationale to see whether there is any objections to that to remain as GAC advice under the GAC consensus advice.

MANAL ISMAIL, GAC CHAIR: Thank you very much, any objections to the current advice and rationale as drafted on the screen? US, Susan, please.

UNITED STATES: Just a quick question. And perhaps a suggestion for more precise wording. On the rationale -- undertake as a matter of priority the follow-up actions within its remit? I'm wondering if the words within its remit is necessary? Because I don't think we would need to clarify that. So that is one suggestion that I would like to make. And with that, that's all I have to say at this time. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Susan. Any objections to deleting within its remit?

IRAN: Manal, normally I do not support US, normally, but I have no problem with that. I have no problem, no doubt they do everything within their remit, I support that on taking that out and proceed with A as GAC advice. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Susan, and thank you, Kavouss. Any other comments on advice language as it stands? Okay. Seeing no further requests for the floor, -- I see European Commission and UK, Olivier, please.

EUROPEAN COMMISSION: It's a very small comment, but is it correct to speak of the Board's scorecard to the final SSR2 regional team report? Can we check exactly the denomination of the scorecard? It seems a bit strange to me, but I agree with your point that you made at the start of the discussion, Manal, that this is really the scorecard that we are looking at. It's just a formulation. If we can find a better formulation -- or the exact formulation.

MANAL ISMAIL, GAC CHAIR: Thank you, Olivier. It makes sense. It sounded weird to me as well, so if we stick to the exact formulation, it would be indeed very help. Nigel, please, UK.

UNITED KINGDOM: Yes, thank you very much, Manal, and good evening to you and to colleagues. -- I mean, subject, of course to what Olivier said about getting the recording right, and thanks to Kavouss for sort of providing some really constructive linger language leer, certainly we think for A and -- certainly A is in a very fit state to go forward as advice as drafted. Thank you so much.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Nigel. So I saw in the chat that the exact scorecard: Final SSR2 team recommendations. So would it sound better if we say Board's scorecard on the final SSR2 review team report? I see confirmation from European Commission in the chat, and I see Kavouss, Nigel, and Susan. So Iran please, go ahead.

IRAN: Have you given the floor to me? Yeah, I don't think we need a scorecard. The Board identifies which action without referring to scorecard. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Kavouss. Frankly, I think the word scorecard here is very important. Because if we remove scorecard, I have the feeling that the language would sound as if we're obliging the Board to take action on all the recommendations. And in fact the Board has already rejected a couple. So I think scorecard here would be in benefit of giving the Board the flexibility to take action according to their wording in the scorecard,

whether the recommendations were accepted or rejected. I see Susan's hand up. US, please.

UNITED STATES: Thank you, Manal. Just another similar comment but it's in the rationale section, so I can suggest it now or perhaps wait until we get to that section.

MANAL ISMAIL, GAC CHAIR: So asking for any further comments on the advice before we go to the rationale? I hope, Kavouss, you are okay with leaving the word scorecard. And if there are objections, we can move to the rationale. I'm not sure, Kavouss, if this is a new hand.

IRAN: I did not propose to remove scorecard, someone else did. If it's okay, leave it as is. I did not object. US objected to that, so please provide your comment to the US, not to me. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you. Apologies, maybe my confusion. I hope everyone is okay with the text as it stands on the screen. And if there are no objections. I see US confirming in the chat that they did not object to the use of the word scorecard. So if there are no objections on the word scorecard, I would favor leaving it in place.

And now moving to the rationale, and giving the floor to the US for comments on the rationale.

UNITED STATES: Thank you, Manal. And we might suggest deleting text in the fourth line of the rationale that could be read to imply that we don't think that the Board would be transparent. So -- considers that the Board should continue to be transparent. We just don't think that is necessary because of the implication against transparency. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Susan. So there is a suggestion to delete the sentence, I believe. The whole sentence.

UNITED STATES: My apologies, should be more clear. I think there is a suggestion to proceed timely, so the proposal is to delete -- yes, exactly what Fabien has highlighted. Thank you.

MANAL ISMAIL, GAC CHAIR: Excellent. Thank you. Any objections? So the sentence now reads: The GAC considers that the Board should proceed with the necessary action plan in a timely manner.

IRAN: Yes, I have objections. Consider is a weak word. The GAC considers that the Board should proceed? Just to consider? Or we suggest or we

advise or we recommend or we expect, but not consider. Consider is not a good word, it's the weakest suggestion, consider, okay, you consider, thank you very much, we don't accept.

MANAL ISMAIL, GAC CHAIR: The GAC encourage?

IRAN: Maybe encourage, maybe urges, maybe invites, requests, but not considers. No problem to invite, to encourage. Encourage is more than invitation. Request is [indiscernible] too but not consider. Please replace considers by encourage. Good suggestion.

MANAL ISMAIL, GAC CHAIR: Susan, is this a new hand? Okay. Then if already no further comments neither on the advice or on the rationale, I would invite support staff to clean the task. Fabien, please.

FABIEN BETREMIEUX: My apologies, Manal, the sentence we just edited reads a little bit weird: The GAC encourage that is the Board should proceed? Sorry, go ahead.

MANAL ISMAIL, GAC CHAIR: No, go ahead.

FABIEN BETREMIEUX: Was just going to say maybe the GAC encourages the Board to proceed? Maybe a suggestion.

MANAL ISMAIL, GAC CHAIR: Yes, I was going to say the same.

IRAN: That is a good suggestion, Manal. Good suggestion.

MANAL ISMAIL, GAC CHAIR: Okay. Thank you. I see confirmations from Nigel, Luisa, and thank you [indiscernible] also for the suggestion. So with that last edit, I hope the text is now confirmed and we're having this piece under consensus advice to the Board. Now moving onwards, I had the feeling that there is a tendency to move advice B and C under issues of importance to the GAC. Any objections to this? Kavouss?

IRAN: Yes, thank you, Manal. Let me be clear. I proposed that yesterday, and US did not support that. Now I oppose the US proposal, and I ask is there any support for that proposal? If there is no support, we just keep is GAC advice but not consensus advice, because yesterday I proposed that and the US did not support that idea. So I want to do the same thing. I oppose to the proposal of the US.

MANAL ISMAIL, GAC CHAIR: Kavouss --

IRAN: Unless support for that proposal, where I would reconsider my position. Is there any support for that proposal. This is the course of action to be taken at any meeting, to propose suggestion, first seek whether supports and if there are supports then you consider further but not for the first thing I don't like it, delete it, no, I don't agree with that.

MANAL ISMAIL, GAC CHAIR: I'm not sure what you don't agree with exactly but that is what I am doing right now, I'm asking whether this is support for moving B and C under issues of importance to the GAC. Is there support for this? And there is no problem we're discussing, and I know people read once and twice and think once and twice, and this is how we try to reach consensus. Susan please.

UNITED STATES: Thank you, Chair. Apologies for that delay. In light of some of the points that we brought up with regard to B, so just putting C aside and also taking into consideration that we do have GAC shepherd, just wondering if it is still necessary to contemplate folding section B into the issues of importance. We would like to hear thoughts on this. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. So any thoughts on why not to seek the necessary information from the GAC Shepherds, asked by Susan?

IRAN: Can I suggest something? Distinguished Susan, could you propose a concrete suggestion in order to maintain that in the GAC advice? Removing the shepherd? Or the idea to be removed?

[overlapping speakers] proposing remove totally or the words term or shepherd, which one please? Thank you

MANAL ISMAIL, GAC CHAIR: I don't normally provide any opinion regarding GAC advice, but explicitly this one I feel it is very likely to be rejected by the Board for several reasons. And having a GAC shepherd is not one of the reasons. But first, what if the Board discussed with the SSR2 Shepherds and they don't agree? Then they are not following the GAC advice. And also what if the Board refused to take the word of SSR2 because the assessment is the mandate of SSR3, so 3 is to evaluate whether to two recommendations were implemented in full or not. So procedurally I'm just flagging the advice as it stands on the screen is highly likely to be rejected by the Board.

IRAN: Thank you, Manal. How can you foresee that, you are a forecaster?

MANAL ISMAIL, GAC CHAIR: Because it's not implementable.

IRAN: No, let's change the text not to refer to the shepherd, to refer to the issue that Board has requested to reconcile its views with the team, that's all. Let's do it differently, different language, that is what the distinguished US mentioned.

MANAL ISMAIL, GAC CHAIR: Sorry, can you repeat? We request the Board to reconcile?

IRAN: To reconcile if used with the SSR2 team, because they have different views between the two. We request the Board or advise the Board to try to reconcile within the views of the Board and -- and views of the SSR2 team. That is something that is workable, that is what the distinguished US delegate mentioned yesterday. So we don't prepare to shepherd, different views, Board says have done this, [indiscernible] says no, so we request the Board to make every effort to end defer to reconcile the different views between the Board and the SSR2, that is what it can do, so I suggest that we reword that.

MANAL ISMAIL, GAC CHAIR: I'm failing to understand what we need here, Kavouss. Because I thought you were of the view that we don't want to instruct the Board to do certain actions. And in fact, I thought you were of the view that we move this to issues of importance to the GAC.

IRAN: Manal, that was yesterday. Today is today. Please let me explain. What is the issue? There is a difference of views between GAC and the SSR2 team. Is that the case?

MANAL ISMAIL, GAC CHAIR: Yes --

IRAN: So -- to reconcile with SSR2.

MANAL ISMAIL, GAC CHAIR: Okay. Can we ask the Board to provide us with further information so that we understand where is the problem, and then we see if it can be reconciled or not?

IRAN: Yes, we can good proposal you make, thank you. Do it in that way. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you. So would it make sense if we change the language to seek further information on the discrepancy in views or whatever the language is? I'm trying to check the language. And I also see some good language in the rationale. Let me read the first part: With respect to diverging interpretation by the Board and SSR2 review team of the level of implementation of certain recommendations, the GAC is of the view that a follow-up assessment should be carried by the Board. So I think we can use this language, whether to seek further information on the divergence or to ask them to consider working closely with the Shepherds, frankly, I don't have a concrete suggestion so I'm sorry. Susan please, go ahead.

UNITED STATES: Thank you, Chair. It's not really the GAC's role to direct the Board to develop a shared view with the SSR2 Shepherds. So again, we would suggest that perhaps we could move this text into the issues of importance section and perhaps ask the Board to provide for an explanation of views of differences in views on the implementation between the Board and the Shepherds? But again, it's not really the GAC's role to direct them to reconcile their views. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. So I see we're getting back to the proposal to seek further information, which again aligns with asking the Board for explanation of the differences, so is this good enough to be accepted by everyone? I mean, particularly those who suggested the text at the first

place? And thank you, Switzerland for confirming in the chat. Thanks, Jorge. And Kavouss, Susan, are these new hands?

IRAN: I cannot read the chart and look at the table. What Jorge is proposing?

MANAL ISMAIL, GAC CHAIR: He is agreeing. He just agreed to the Chair's suggestion to seek further information.

IRAN: Yes, but put it here or in the issues of importance for GAC. If it is here I have no problem.

MANAL ISMAIL, GAC CHAIR: So far, my understanding is we are still under GAC advice to the Board. Is it okay with everyone?

IRAN: Manal, for me it's okay. Leave it here, soften the word, take out shepherd and put it here. But not shift it to the importance to the GAC. Maintain it here, no matter what changes you make.

MANAL ISMAIL, GAC CHAIR: Thank you, I also note UK's treatment in the chat and Switzerland flexible on where the text may go. So if there are no further requests for

the floor, I'm reading the text one more time. Yes, Fabien please if you can help.

FABIEN BETREMIEUX: I was actually going to suggest that you reformulate your [indiscernible] because I tried to capture the very suggestion and it's very difficult to [indiscernible] sorry.

MANAL ISMAIL, GAC CHAIR: So the GAC advises the Board to provide further information on the -- reading from the rationale: Of the level of implementation of certain recommendations. So whether we would like to specify examples or reference the scorecard or -- I'm flexible. So any comments?

IRAN: I suggest we don't do anything, just two lines is sufficient. [indiscernible] and sufficient.

MANAL ISMAIL, GAC CHAIR: Thank you, Kavouss. Noted. Any other comments? Okay. If not, are we good to delete the rest that is now between square brackets highlighted on the screen? Okay. Then let's delete it. Thank you everyone. I'm now reading the rationale.

It reads: With respect to diverging interpretation by the Board and SSR2 review team of the level of implementation of certain recommendations, references 4.1 and 9.1, the GAC is of the view that

follow-up assessment should be carried by the Board in close cooperation with the SSR2 review team Shepherds to clarify the divergence. This advice would allow ICANN and the ICANN community to gain a shared understanding of the issues, effectively requiring action. Any comments? Hearing none, maybe -- yes, sorry, Fabien

FABIEN BETREMIEUX: I was going to point to the chat.

MANAL ISMAIL, GAC CHAIR: Thank you. Reading the comment in the chat from USA: We don't think this request arises to the level of advice, and so suggest moving it into issues of importance.

IRAN: Manal, we don't agree with that. We disagree with that. Change it softer and it's okay. Provide further information. What is wrong with that?

MANAL ISMAIL, GAC CHAIR: Thank you Kavouss. So we have one in favor and one against. I hope we can try to find a middle ground. Susan please. Go ahead.

UNITED STATES: Thank you, Manal, colleagues. We had entered that comment in a bit earlier in the discussion. So I think we can agree to leave the text in the advice section, but just a few ideas with regard to rationale, I think the rationale would make more sense to match the advice. If it's limited to

seeking additional information, that would be helpful to gain a better understanding -- at present it doesn't seem that the rationale and the advice necessarily complement one another –

MANAL ISMAIL, GAC CHAIR: I see your point, Susan. Maybe Fabien can type it. I see your point. So it's not the rationale for the specific new language. So would you like to repeat the proposal?

UNITED STATES: Perhaps it could be very simple to match the simplicity of the request, short and sweet. So the rationale perhaps could read: The GAC believes that additional information would be helpful for the GAC to gain a deeper understanding of the diverging interpretations. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Susan. Any comments on two sentences of advice and two sentences of the rationale, short and to the point? Kavouss? You are still on mute. I still cannot hear you. So maybe until we're able to hear Kavouss, we have –

IRAN: I repeat: The last line [indiscernible] this advice would allow ICANN -- up to the end, please put it at the end of the one and a half lines of rationale. Fabien, please pick it up and put it at the end after interpretation.

MANAL ISMAIL, GAC CHAIR: Thank you, Kavouss.

IRAN: That is helpful and thanks to Susan, it's very good proposal. Thank you very much. Very collaborative.

MANAL ISMAIL, GAC CHAIR: Thank you, Kavouss and Susan. And I see Luisa also supporting the new text. And Denmark supporting having it under advice. And Nigel, UK also agreeing. So I think we're good to move on. We have only 10 minutes, and I would like us to hopefully finish the communique and maybe take a few minutes from the wrap up session to make one final reading.

IRAN: Can I make a suggestion?

MANAL ISMAIL, GAC CHAIR: On which part, Kavouss?

IRAN: Number C –

MANAL ISMAIL, GAC CHAIR: Reading it: The GAC advises the Board on how [reading]

[overlapping speakers] the GAC advises the Board to consider and inform on available ways and means to better make use of current contractual provisions in order to answer advice and enforce responsible measures to prevent and combat DNS abuse, Kavouss please.

IRAN:

Manal, I have a lot of experience in drafting text. Please kindly allow me to say this one. Yeah, in the second line when we say compliance, we should say compliance with and interpretation of. This is the English [indiscernible] compliance with and interpretation of. Yeah, after compliance, with. This one. And then go to number two. Consider and inform on available ways and means. I don't agree with that. To explore.

MANAL ISMAIL, GAC CHAIR:

May I ask a question before we get into wordsmithing? Is everyone okay with having this piece under GAC advice to the Board? If yes, I will give you the floor to propose your edits. I'm just making sure that -- because we will draft it accordingly. Is everyone okay with this under GAC advice to the Board? Susan, is this in response to my question?

UNITED STATES:

Yes, Manal. As we had expressed during the last session, we would rather provide some text in the issues of importance section. We have explained that the Board did already reject these recommendations and it provided rationale for that. In addition, the Board recently just

on the Friday preceding, there was a three-hour very dynamic and engaging session with information on DNS abuse and compliance.

And so we have proposed in a comment in the issues of importance section, text which we believe acknowledges that the Board did reject recommendations 14 and 15 for procedural reasons, but actually invites exchange between the GAC and the Board on the substance of those recommendations. And so that is our proposal to move that up into the issues of importance section. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Susan. So in light of what the US just mentioned, any objections to moving this to issues of importance to the GAC?

IRAN: Manal, it's seven or ten minutes to the end of this meeting. We see that this is not so critical to be an advice. We could change it and put it to the important issues for the GAC, and just provide in the number one if you want to keep the same number, provide further information. And then number 2, instead of consider, to provide -- or to explore ways and means, to explore ways and means, to better make so and so, and then we have no problem to move it to the issues of importance for the GAC.

So this is the return comment to the US. They agreed with number 2, and we agreed with the [indiscernible] proposal for number 3 in the spirit of collaboration. So with these changes, I think you can transfer that the to the issues of importance to the GAC and you don't need any

rationale. So you are covered in the last five minutes. This is my third proposal. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Kavouss, for the compromise and collaborative spirit. So we now have a suggestion to move the advice part to issues of importance to the GAC and delete the rationale. I see Canada saying we have no problem to put under the issues of importance. Any other comments? Seeing none, we will -- Olivier, please.

EUROPEAN COMMISSION: Sorry, I'm just a bit concerned that there is important information in the rationale, for example we make the link with recommendation groups 14 and 15. And I would not like this to be lost, whether it stays here or this goes to the issues of importance. I think it's important that we relate it these specific recommendations in the SSR2 report. So that would be my plea, that we keep this reference. Thanks.

IRAN: Can I suggest something?

MANAL ISMAIL, GAC CHAIR: Yes, just a second, Kavouss.

GULTEN TEPE: So sorry to interrupt. Kavouss, you need to wait for Manal to give you the floor. Please remember to raise your hand. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Gulden, and I see the text being moved -- so we will cut the full text and put it under issues of importance to the GAC, and for the European Commission, just see if you need every single word in the rationale or it could be a shortened but I think we are normally more flexible with the wording under issues of sports to the GAC, so I don't see a problem keeping everything if needed. Kavouss, please. Go ahead.

IRAN: I don't know what Gulden said, I was already raising hand. What I am suggesting here in number 1, when we say provide further information -- yeah. After abuse, taking into account recommendation 14 and 15. Taking into account recommend 14 and 15, that is the point Olivier mentioned. I'm going to help, Manal, it's the last minutes here, very, very late hours here. So we have to do something, I'm sorry if I intervene. No intention but to help. That's all.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Kavouss. I'm looking at the time. We're at the hour. I think this is the scheduled end time. Yes. So with this, I think we will need some time. I hope not much, out of the GAC wrap up session to finalize the text and made one last reading. But for now, please enjoy a 30-minute break, and please be back in the room at 12:30 Seattle time and 1930 UTC. Thank you.

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