SINGAPORE - GAC PM Sessions
Tuesday, February 10, 2015 – 14:00 to 18:00
ICANN – Singapore, Singapore

CHAIR SCHNEIDER: Thank you for being here again. I hope you had a nice lunchtime.

As you know, we have the discussion about possible GAC participation in the NomCom, and I'm happy to have the current chair of the NomCom with me whose name is Stephane Van Gelder, and I will stop here and give the floor to Stephane to say a few words to us.

Welcome, Stephane.

STEPHANE VAN GELDER: Thanks very much, Thomas. It's a pleasure to be here, and it's taken a lot of work, actually, just to be here. So I want to thank both Thomas, Olga, and Gema and others who have worked very hard with us to make sure that we are able to engage, speak, and perhaps ask a few questions of each other so that we understand each other more.

I do have a presentation for you, but we also have a few, let's say, open issues that we'd like to put on the table and make sure that we can at least get some clarification on the way the GAC sees the NomCom and the way it might involve itself in the NomCom.

So perhaps I can just very quickly remind -- if I can have the first slide of the presentation. Just very quickly remind you all what it is we're doing this year. We're looking for -- to fill three seats on the Board. We're

looking to fill three seats on the At-Large Advisory Committee, two seats on the GNSO Council, and one seat on the ccNSO Council. And if you -- next slide, please. If you look at the current Board makeup, you'll see that in Asia PAC, we're already oversubscribed, and that means that we have a bylaw limitation which stops us from being able to select anyone from Asia PAC for this year for the Board, but in the other regions we can still select.

Next slide, please.

That's our timeline. Very quickly just to tell you that our current application period ends mid-March and we will then be selecting and expecting to finish that in Buenos Aires and then be ready to announce a new slate of candidates by the AGM this year.

Next slide, please.

That's just to give you an information snapshot on what's happening right now. This is live as we are right now in terms of applications. So these are the numbers of applications that we've received so far.

This is actually a high number for this stage of the proceeding, so as you may or may not know, the NomCom has been doing a lot more outreach recently. We've increased the transparency of our process, and we are making sure that people know about what the NomCom does and how to apply.

I will stress that the candidate data is and has always remained confidential. But we are talking about the process a lot more, and that's helped us, I think, outreach and get people involved. So we've got 43 people who have already applied for the Board as their first choice, 11

ICANN | 52
Singapore

for the GNSO as their first choice, 15 for ALAC as the first choice, and 8 for the ccNSO as their first choice.

Next slide, please.

That's just a few links. So that's the end of the presentation. I wanted to make that very quick.

If I can just get onto the topic of who is -- the NomCom engagement with the GAC or the GAC's engagement with the NomCom.

Some of the questions that we have right now and that we're coming to you with, and perhaps we can start a conversation, just understand a bit more, our questions are -- and we reached out to see if the current position on the NomCom that's open to the GAC can be filled, with the assumptions that it is difficult for you to fill that position because you have several issues as government representatives.   You are here representing your governments.   Is it easy for you to take part or participate in a committee like the NomCom as an individual? Are there issues of confidentiality that might be troubling you? And if so, can we help at least solve those issues or answer some of the questions you might have?

Is there a potential conflict in selecting people from this space to represent the GAC and all the GAC membership on the NomCom as one person representing the GAC membership? Is that a problem for the GAC?

So those are questions we're asking ourselves and that we're hopeful this discussion with help do -- can help lift.

And I'll finish with a couple of things. The first is that, as I'm sure you all know, there's a process ongoing, there's a Board working group on NomCom improvements that's put in a set of recommendations that are now being discussed by the community. Those recommendations suggest a change to the structure of the NomCom, and that impacts the GAC a lot. So that's also something that we may want to discuss at some point. There's actually a NomCom review that's about to start, which is a separate process. As you know, most ICANN groups get reviewed periodically, but that's separate to to the Board working group recommendation.

So there's a lot going on, and there's lots going on both involving the NomCom and the GAC.

And just to finish, I'd like to acknowledge that you have in this room lots of people that are wearing red lanyards like myself. They are all committee members. So most of them I see sitting over there, and we use the red lanyards to identify ourselves, help candidates or prospective candidates come up and talk to us if they need to. That's also true for other members of the community. So if your questions -- or if you have questions that you don't feel you want to ask now, please come up and see us later on and we'll be happy to help.

And I'd also just like to acknowledge my co-leaders who are at the table here with me. At the far end, Cheryl Langdon-Orr who is the associate chair this year. She was chair last year. And you're seeing in that the excellent, I think, succession leadership planning that exists on the NomCom. That extends to the person sitting next to me here, Ron Andruff, who was selected by the Board to be chair elect this year. So

there's a presumption that unless he does something majorly wrong, he will be chair next year.

So that's it from me. And, Thomas, back to you for any questions.

CHAIR SCHNEIDER: Thank you.

For your information, we will have the availability of Stephane and his team for the whole session, so we will be able to answer questions to them and they will be there for clarification. So because of that, I'll don't do a -- I will not give the floor for questions now. I will immediately hand over the floor to Olga that will present some of the work of the GAC working group on NomCom.

Thank you.

OLGA CAVALLI: Thank you, Chair.

Thank you very much for the NomCom for the visit. Many friends in the NomCom. That's very good.

I would very briefly present the work that has been done by working group that we started in the Los Angeles meeting.

If we can go to the next one.

We started after Los Angeles meeting reviewing the possibilities of an active, or not, involvement of GAC in the NomCom. Why did it happen? Because we had a presentation with a new proposed NomCom

ICANN | 52
Singapore

structure that was for public comments until a while ago, and it, as very well said -- was said by Stephane, it impacts the participation. It impacts the GAC, but because it proposes active participation, voting participation from the GAC.

So we had some exchange of ideas over email list. We have one conference call. There is some background document that I sent to you, to the GAC list, I think a week ago. And I have some ideas from that exchange that I will show to you in this moment.

So why did we started this exchange of ideas?

Can we go to the next one, please.

There you have the two composition of the NomCom. The present one with 15 voting members where the GAC has a nonvoting seat that it's presently not using, not participating, with a nonvoting seat. And then there is the new proposal expanded the membership of the NomCom from 15 to 23 or 25 where the GAC has a proposed participation of three voting members.

Just for your information, some countries did prepare a document expressing our interest, and one of them was Argentina, expressing our interest that we have an equal footing in the amount of voting members as the ALAC, GN and ccNSO has in the representation of the five regions.

Of course this was not a document endorsed by the whole GAC but by some governments that are represented in the GAC.

Can we go to the next one?

ICANN | 52
Singapore

So which were the challenges and the ideas that we exchange among us in the working group? And we exchange in Los Angeles, also, as this new proposed composition of the GAC -- of the NomCom.

Some thought that an equal footing for participation of governments in all the ICANN spaces and processes and working groups was a major part of the multistakeholder process, and it's also a mandate from the WSIS documents and all the Internet governance concept of the equal footing of the participation where the governments are one stakeholder as the other ones.

So, also, some of us, perhaps many of us, thought that a governmental perspective in the selection of the ICANN leadership roles was important, not only a business perspective or a civil society one, but also having some governmental perspective in that selection.

There was some limitations expressed by some members, some confidentiality requirements for GAC representation in the NomCom. When consulting back to our -- to our administrations, we are not individuals participating in the GAC. We are representative -- representatives of our government, so there was -- there is a limitation about that.

Also, some countries expressed concerns why a member of a government cannot be appointed as a board member. This is a different discussion, but it also came up in the exchange of ideas. And we think that all this is linked to a broader discussion, which is related with the accountability and the balanced participation of governments in all the ICANN process in an equal footing.

Can we go to the next one, please.

So as a result of these deliberations, we have been prepared some triggering questions for you. I think they are -- they bring more ideas to what Stephane presented a few minutes ago.

There was some consensus among the members of the working group in developing some criteria that the GAC could prepare for the selection of some leadership positions that could be taken in consideration by the members of the NomCom. So that would be somehow agreed. We would like to have some feedback from you if you think that's a good idea that the working group could start working on that. And by the way, in the draft document that we sent to you, there are some suggestions of the first draft of those -- of those criteria that were prepared by Gema. Thank you very much, Gema, for that.

Also, we requested the ALAC their own criteria for the NomCom work that they do, and they were so kind to send us. So in the document that we sent to you, there is a part of it that is relevant to our work.

About confidentiality, and that would be a question to our friends from the NomCom. If we can perhaps have more detail about what does it mean and what it implies in the work of the NomCom and in the work of the voting members or just observing members of the NomCom.

Could we think about innovative solutions and how to solve this?

Can we use other examples of where the governments participate in the selection of or in a process where there are some representativity of governments in the work? I remember the MAG. I was a member of MAG for many years, and we were individuals, but some of us

represented government. It is not the same. We had no confidentiality, but it's just an example. Could we think about other examples and how these problems were solved or not?

 Other concerns behind the GAC participation in the NomCom. It's not only the confidentiality issue. It's a fear of a space being captured by governments or a space being captured by some other participants or by some other stakeholders. Are there other fears that we have or problems that we may find other than those that we could identify?

 And which could be the advantages and disadvantages of the GAC participation in NomCom?

 One thing that we thought about starting to work in the working group is preparing for the GAC during the next month, perhaps to show you during the Buenos Aires meeting different options, what would be the scenarios for an involvement of the GAC from just an observing position up to voting positions and see among us if this is something that could be done by the GAC or not.

 So I think I will stop here. There is something more?

Some other slide?

 Oh, these are a summary of the ideas for guidelines that Gema prepared which would be the requirements for a selectee by the NomCom having a governmental perspective, having worked for a sustainable period of time for a national government or an intergovernmental organization.   Dedication and achievements in advancing public interest in areas that are relevant for ICANN. Being experienced in building partnerships or agreements among different

ICANN | 52
Singapore

parties. And geographic, gender, and language diversity if the number of GAC selected members is higher than one.

And I think this is the last -- the last slide. Can we go? Yes. Okay.

So what we expect from you, give us some feedback about this. The work will not stop here. It starts from here on until the next meeting.

Let's help us define the next steps and any other ideas. And we'll stop here.

Thank you very much.

CHAIR SCHNEIDER: Thank you very much, Olga, for this presentation. So now the floor is yours. Please comment, give feedback, ask questions.

Thank you very much.

Who would like to start?

United States.

UNITED STATES: Thank you, Chair. And thank you to Stephane and the members of the Nominating Committee for joining us today. It's a useful opportunity for us to be better educated, I believe, as to the nature of your work and the confidentiality requirements in particular.

I'm going to date myself with my next comments, and Cheryl will get a big giggle out of that. Having been here and doing this for -- it's embarrassing to say, about 11 years, the NomCom issue, the issue of

ICANN | 52
Singapore

the GAC participation is actually an old one. This is not new, per se. And I do remember being a fairly new GAC member and not even knowing there was a GAC representative on the NomCom, which triggered some interesting discussions within the GAC, I think it was during 2006-2007, to understand precisely what it meant.

And the more we learned, the more, I think, for several of us we had some questions.

And I think, Stephane, you teed it up very nicely at the outset. Governments are rather different from other members of the ICANN community. And so there is a -- we are constrained, if you will. I know I certainly am. I am not here in a personal capacity in any way, shape or form. I am here solely to represent the U.S. government and I travel under instruction and guidance, et cetera, et cetera, and I imagine most if not all of my colleagues are in the same boat.

So there is a bit of a constraint in that we are not actually empowered to extend any responsibility that we are meant to hold for our sovereign interest to another person or entity, much less to another government.

So when we get to NomCom and our understanding, speaking solely for the United States, so I welcome you being here because perhaps you can correct any misunderstandings we might have, the GAC, in light of the Board working group recommendation that we increase the current GAC option of having one, which we haven't had for many, many years now, to three raises the very same questions that, in fact, the GAC addressed years ago and included in a chapter in the June 2011 joint GAC-Board working group on a lot of these issues that came out of ATRT1, I believe. And we laid out the challenges at the time.

ICANN | 52
Singapore

So just bear with me as I try to sort of explain my understanding.

The vast majority of the work of the NomCom, and you can tell me what percentage it is, is, in fact, highly confidential and must be because you are dealing with the names and the qualifications of individuals, human beings. So the challenge for us as a government in considering whether we could empower a GAC colleague to give a GAC view is that it strikes us that it's almost impossible to give a GAC view because there can be no discussion within the GAC as the GAC of this individuals and their qualifications.

And the more we thought about it in the United States, it kind of even goes one step further. It isn't even so much that we would be granting another government the right to pass judgment on our behalf. We would be granting that right to a human being, an individual who happens to work for a government. And that is even more challenging.

So just to sort of make it very mundane and prosaic, I have struggled with how would I write a briefing memo to the Secretary of Commerce or anybody else in my management as to how it was that I decided to cede some decision-making authority to an individual to speak on my behalf. We haven't figured out how to explain that and how to explain the value add to the NomCom, because you wouldn't be getting a GAC view. You wouldn't even be getting an individual government view, it strikes us, because that person could not consult with their own government. There are some constraints.

So you can clarify whether I am misunderstanding those constraints. But we have tried to think this through from a number of perspectives.

ICANN | 52
Singapore

We do think and we'd like to think that you would find it helpful, we do think it's possible for the GAC to probably reach consensus on some criteria that we think would be useful for you to take into account without in any way appearing to try to direct your work. Because, obviously, you all know exactly what you are -- have been tasked to do, and you have sorted your own working methods and how you would proceed. But we do think if you think it would be helpful that that could be something the GAC could certainly work on and arrive at a consensus approach to criteria as opposed to direct representation.

So I'll just stop at that point and see if any of this resonates. It seems to be.

CHAIR SCHNEIDER: Thank you very much. United States.

Before we give the floor to Stephane and others from the NomCom, I would like to ask for a few more comments, if possible, from the GAC. And then we can maybe answer them all together. Any more views, comments, questions from -- Spain? And then Switzerland.

SPAIN: Thank you, Chair.

On the issue of criteria, I think it would be worth pursuing that path and drafting criteria for the NomCom to take into account when they make their selection. But I wonder how long this criteria would go if they have to take into account also ALAC criteria or their own criteria for selecting appointees to different councils and bodies. We may find

ourselves in a situation in which the board members selected by the NomCom don't meet any of the GAC's criteria. And they -- we wouldn't be able to claim anything against that decision because that's criteria they have on the table and they may decide whether or not to apply and how to apply them. So that's the reason why we think that it could be worth to say that a number of board members, which could be one maybe, have to fulfill the specific criteria set out by the GAC. Thus, we would ensure that the governmental perspective is brought to the board or maybe the other councils where NomCom selects members. Thank you.

CHAIR SCHNEIDER: Thank you, Spain. Switzerland and then China.

SWITZERLAND: Mr. Chair, what we are asking -- it's Switzerland speaking. What we are asking to the other GAC members is to be considered when decisions are made so that we may say what we are willing to say. So we can see what other members of the NomCom -- the NomCom will make certain decisions in following some confidential processes. And so a lot of issues are raised. First of all, we would have to choose these three people, three representatives -- I think that's the number -- we would like to know what would be the criteria to select these three representatives? And, once they are elected, I don't know if you can give me some other explanation. But, if we are within a confidential process, we are giving these three people the possibility of doing whatever they like regarding the members of the NomCom. These

ICANN | 52
Singapore

three representatives won't be able to come here and tell us what are the candidates for the board, because it's a confidential procedure.

So I think there are lots of issues that at least are not easy for me to understand.

On the other hand and with respect to these three representatives, how can we predict how they are going to vote? Because this is another issue. Since they are government representatives, I think that before moving ahead, we have to find a solution to these problems. And I clearly understand the questions that my colleague from the United States has posed. It's not easy.

Perhaps we're not in the same position as other representatives of GNSO, ccNSO, or the ALAC. We have representation that was given to us. And we are not speaking on our own behalf but on behalf of our governments, our administration. This is what I wanted to say at that point.

CHAIR SCHNEIDER: Now China takes the floor.

CHINA: Firstly, we fully support that GAC should have more active participation in the work of NomCom, which means that we think that, both in terms of increasing the number of the seats from -- seats or representatives from GAC. And also we think it's very important for GAC to have the voting seat in the NomCom.

And we think that this is in line with that -- our intention to enhance GAC's role in the framework -- under the framework of ICANN and, in particular, to have GAC more involved in the selection or the leadership of ICANN.

And, as for the procedure or criteria for selecting the representatives of GAC as well as how to deal with the issue of confidentiality, we think it might be helpful for us to refer to the practice of other advisory committee or supporting organizations that we are selecting the activity -- their representative. And though we -- to do with -- to deal with the issue of confidentiality.

For the concern raised by the United States representative, we think that once we have the representative from GAC, this -- to NomCom, he's responsible for the whole GAC rather than responsible for his -- for the government that he's coming from. And I think he should be pursuing the interest or the governmental aspect rather than the interest of his own country or territory. Thank you.

CHAIR SCHNEIDER: Thank you, China. Before we give the floor to other GAC members, I think it would be good to get a little bit of a response to what we've heard as comments and questions from people from the NomCom. So the floor is yours.

STEPHANE VAN GELDER: Thank you very much, Thomas. And thank you to all of you for your questions. I'll start answering in French Switzerland's questions seeing as they spoke in French and then switch back to English.

ICANN | 52
Singapore

So for Switzerland, with respect to confidentiality, I would dare say that our work today at the NomCom most of the work carried out is a non-confidential work because we consider all the administrative aspects of our work in an open and transparent manner.

The only thing that is confidential -- and I hope that this concept will understand you move in your discussions -- the only confidential aspect of our work is the information regarding the identity of the candidates at the NomCom.

This is something that will not appear mentioned in NomCom communications. And I'm speaking about external communications. You will never see the information about the candidates regarding their identities for reasons that are clear.

-- that were raised. And I want to stress that for us this is very much a first or initial step in a conversation that I hope we will be having for a long time to come over the years. There are, obviously, lots of problems that you have all mentioned -- or issues maybe that you've all mentioned and I'm not sure it's up to the NomCom to solve or even that we have any ability to solve beyond trying to help you to understand how we work and how the GAC might fit in to that work. So the issue of government representatives talking for other governments, et cetera, I think is a bit difficult for us to get to. But I would like to say that what we did this year was look at the current structure.

I had, as incoming chair, a little information on why -- coming back to Suzanne's point on why the past NomComs did not have GAC representation. So, rather than just base my work on, you know, limited informational rumors, I reached out to your leadership to try

and get the conversation going. And that's really where we are at this stage, I think.

The number of seats -- there was a point about the number of seats that the NomCom GAC reps -- the number of GAC reps that might be sent to the NomCom. That also is an issue that I think is out of our hands.

What we are looking at right now is a structure that has one seat for the GAC. If that changes in the future, then, obviously, we will look at what changes are made. But right now the issue is: Is it possible to have GAC representation through that one seat? I will say that the suggestion from the United States that you send us criteria or things -- let's just call it things that you'd like us to look at when we make our selections I think is a very, very helpful suggestion. We go out to all the groups that we -- that make up this community and ask them for skill sets, ideas, what are they looking for, what's useful. Obviously, the choices we make impact the whole community. So getting that from the GAC would be an excellent thing. And that may be a first step down the process -- down the road on this process. I'm not sure.

Another thing that I really wanted to explain to you is that the current membership, the others, non-GAC membership of the NomCom, they have a rule that, for example -- so you get people elected from the GNSO community to the NomCom. But, once they're in that NomCom room, they leave their affiliation behind.

And they really are acting as individuals for the best interest of the community. So we are not expecting just to say on that example. We are not expecting the NomCom GNSO representatives to only act in the

interest of the GNSO. Perhaps that's something that's useful for your deliberations and debates as well.

I'll just close with saying that I understand the issue and the problems with GAC representation anywhere. Some of you may know that I was chair of the GNSO previously. And that was a problem that was very much in evidence when I was chairing the GNSO, how to get GAC participation in GNSO work or policy work.

So I understand that since then there has been progress with a GNSO liaison to the GAC. And perhaps there are ways of finding solutions with the NomCom situation that may be similar to what you found elsewhere. Thank you.

CHAIR SCHNEIDER: Yes. Ron, please.

RON ANDRUFF: Thank you, Chair. Just a footnote to what Stephane has explained about the criteria. Sorry. For the scribes this is Ron Andruff, not Ram Mohan. Thank you.

CHAIR SCHNEIDER: Ron Andruff, not Ram Mohan.

RON ANDRUFF: Speaking to Spain, there was a question of the criteria. Would we accept your criteria over another's criteria? I think it's really important for everyone in this room to understand that we accept all the criteria

that is given to us from all of the various bodies within ICANN. And then we try to harmonize that insomuch as we look at all of it. And then we bring it to the committee, we as a leadership team bring it to the committee saying these are the things we're looking for this year.

And I would couple that with the dynamic that every year the dynamics around ICANN change. So, for example, we used to be dealing with new gTLDs. And now we're dealing with transition.

As we move into a transition phase, we may look for board members who have different qualities than the ones we were looking at for the gTLDs, for example. So it's a very -- it's very much a year-by-year dynamic. And all the -- we reach out each year asking each of the various parts of ICANN to please give us their criteria so that we can indeed try to fulfill what the community is asking. And we certainly view the GAC as part of the community. Thank you.

CHAIR SCHNEIDER: Thank you. As time is running, I understand that Cheryl would like to speak briefly. And then I'll go back to governments. I have Kuwait and then Argentina.

CHERYL LANGDON-ORR: Thank you very much. Cheryl Langdon-Orr for the transcript record. It will be brief.

The issue of confidentiality and voting are the things I wanted to quickly come into. And I really do welcome the offer of bringing us some criteria. That's going to be hugely important and very, very valuable.

ICANN | 52
Singapore

But I think we also need to understand, as we are now unpeeling what used to be a very secretive and hidden environment -- unpeeling of the layers, we want to help you understand. We vote -- watch my hand -- this many times. It is a pro forma vote, single, that accepts the final slate as it has been discussed and developed.

And perhaps that type of information will help you in your deliberations as well. Some of our administrivia, whilst we put it out here, is not understood. So any question that you have that can help in your deliberations I think we all stand to assist you. But there is one vote in the NomCom at the very end. And it's a piece of pro forma formality to accept the final slate. That's the type of thing I think might be helpful as we navigate this conversation. And I'll stop there. Thank you.

CHAIR SCHNEIDER: Thank you, Cheryl. Kuwait, please.

KUWAIT: Thank you, Thomas. Of the criteria that I'm an individual acting in the NomCom doing my selection for the best of the community, we are, as government reps, we are not elected or selected like other members of the NomCom. We are here representing our governments, and we are here part of the GAC.

So I will either represent my government or I will be a representative in the GAC.

And that -- a representative of the GAC. It means I will share the information about the candidate either with my government or even

with GAC members. So the issue of confidentiality -- according to the nature of my role or my involvement in the organization cannot be taken as an individual. I am not here acting as an individual. I'm -- unless the GAC in my exercise says you can act as individual, and I doubt that very much.

That's one.

Our role -- and I would question a fundamental part. Is it our role as government to select members of the supporting organization or, let's say, the ICANN Board? We are here as the GAC and the nature of our role, we are expressing about opinion almost all across (indiscernible) issues within the ICANN activity.

So would it be our role to participate in selection of individuals for supporting organization or the Board? Another question. There are certain positions in the ICANN that request that the candidates are not affiliated with governments. Yet if the GAC will be there, then there is a government interest or a governmental in selecting a candidate who should be a nongovernment affiliated individual.

There is a contradiction, and I don't see how smooth is it. But maybe the GAC role will be better in making the process or in expressing some (indiscernible) criterias regarding the qualification of a candidate or that transparency of the process itself or maybe the selection of the NomCom members or what it means that someone is there based on his individual acting for the best of the community, including me as one community, part of many communities, within the ICANN.

Thank you, Mr. Chair.

CHAIR SCHNEIDER: Thank you, Kuwait.

I have Argentina.

ARGENTINA: Thank you, Chair. A question to the NomCom and some comments reacting to our colleague comments in relation to Kuwait, Qusai.

There are different roles in the NomCom. Some are observers and some are voting members. This is part of the discussions that we must have inside.

One of the things we would like to do with the working group from now on is prepare different scenarios of nonparticipation, participation through an observing role; participation with one voting or more than one voting role. So that's something we have to develop among the working group and present to the GAC, and you're welcome to join news the work group.

One question to the NomCom. Do you disclose among yourself -- maybe you cannot answer this question. Do you disclose the name of the candidates from the start of the process or you do it at the end when you have to do the interviews?

Why I'm asking this, I've done revision of papers, for example, in the university, and sometimes you receive the papers, you don't have the name of the people that is writing it, but you have to -- so you are totally objective in the way that you review the content. And at the end, sometimes you get the name.

ICANN | 52
Singapore

If you can answer the question.

CHAIR SCHNEIDER: Very quickly, please. Then we follow the speaker's list.

STEPHANE VAN GELDER: The simple answer is yes. As soon as the application period closes, the identity of all the candidates are available to all NomCom members.

CHAIR SCHNEIDER: Thank you.

I have Portugal, Denmark, and The Netherlands.

Portugal.

PORTUGAL: Thank you very much, and I would like to thank you, well, to the working group, for this amazing job that you are doing. And I think that the thing that we are here discussing, it's very good because I never discuss such a thing since 2009 that I am a member. So thank you very much, because I think that we are in the right way.

My second point is that ICANN is very proud of its multistakeholder model.   But governments are not on equal footing on this multistakeholder model. So I think that we have to find the right place for the governments to have a role here.

Why? Because the public policies are not really part of the -- of our interests or of the company (indiscernible) and of the others' interests.

ICANN | 52
Singapore

So I think that we are missing here something that is very important for the consumer, for the citizen, for everybody that is the public policy.

So I think that we have these two things, so governments are not on equal footing on this multistakeholder model. Sometimes -- well, I must say that I think I have to apologize. Sorry, I'm here coming from a government, sorry, so I don't think that the right feeling because we are part of the community, but I understand that this issue is very complex.

So to sum up, keep doing the very good work because I think that we can achieve something.

Thank you.

CHAIR SCHNEIDER: Thank you, Portugal.

We have Denmark.

DENMARK: Thank you, Mr. Chairman, and thank you to the working group and to the NomCom members coming here today and to explain it.

I think from the Danish side, we share much of the concerns raised today that government participating here or individual participating coming from the government, we can see the problems and issue raised by the U.S. And we, too, extend -- share those concerns.

I heard the idea of criteria, and I have heard from you that it's way forward. And from our point of view, we think, from the government point, we can achieve the same thing by having criteria. We do not

ICANN | 52
Singapore

need to be present in every case and afterwards not be able to sharing with other colleagues there.

Also, from other -- from our point, we don't think it contradicts on equal footing. We have the possibility sometimes from government we say we thank you for the invitation. We are not coming. That is also our possibility.

So we would like to look at the possibility for criteria, and also if there is other ideas how we can have liaisons or work together, that, I think, can move the thing forward.

Thank you.

CHAIR SCHNEIDER: Thank you, Denmark.

The Netherlands, please.

NETHERLANDS: Yes. Thank you, Thomas.

I think along the lines of Denmark and others. We , let's say, the purpose of the NomCom and, let's say, the influence we want as governments in the NomCom process is to have people with a good affinity with public policy in the Board. And in our opinion, this cannot be done by voting or being, let's say -- government X saying that this guy should be there or this women should be in the vote. This is not realistic. It's not feasible. It's something which we should also not endeavor to want to do this.

So I think along -- our experience in The Netherlands is much more alongside the proposed criteria by Gema.

I think if we set down criteria, for example, that X persons of the board members or to-be-chosen members should have at least an affinity with public policy coming out of administrations. We can write them down. I think this is much more feasible and suits better our role as governments.

Thank you.

CHAIR SCHNEIDER: Thank you, Netherlands.

I have Spain.

SPAIN: Thank you.

 I see that we have some comments in favor of drafting criteria also from the NomCom side. We are encouraged to continue around that line.

I would like to answer very quickly the question raised by the Kuwait representative about if governments have to elect members to the Board, maybe this was proposal made by the NomCom working group or the Joint Working Group on NomCom. It hasn't been asked by the GAC. We have our role in ICANN, which is providing advice, but the community felt that there was a missing person or something miss in

the selection of board members and that that was missing was the governmental perspective.

So I think we should think how we can help them in bringing that governmental perspective to Board and other SOs and ACs. And in that respect we have not to forget that NomCom also selects members for supporting organizations and advisory committees, and we are not advising GNSO, ccNSO, ALAC, and so on. We only advise the Board.

So maybe it is a good idea to have some governmental people or people with affinity with public-policy interest in those supporting organizations which are the ones which initiate policies.

And just a quick question on the behavior of people in the NomCom. You say that they act as individual in the best interest of the community, but I read in the paper that you proposed that people vote by delegation. If they both by delegation, maybe they are not acting just as individuals for the benefit of the whole community but very much taking into account the individual of their community.

Thank you.

CHAIR SCHNEIDER: Thank you very much. Looking at the clock, we have one minute left. In case nobody insists on taking the floor -- I see the U.S. I would urge you to be brief, and then we give final few seconds to the NomCom.

Okay. The United States.

UNITED STATES:	Thank you, Chair. And thank you for indulging me. I will be brief.
	I just wanted to seek some clarification from Gema, from Spain.
	My understanding is that the current -- as Stephane clarified, you are currently anticipating the single position which has been vacant for many, many years for good reasons, we think. They've been outlined in a joint Board-GAC working group report, shared views in 2011.
	We're now at a point, reexamining this, not because I believe the community has asked for it, Gema. My understanding is it is a Board working group that has proposed a set of recommendations that, again, my very informal understanding is they are not being entirely positively received in the rest of the community, if I may say.
	So I'm not entirely sure how much standing or weight we need to give to that. That doesn't necessarily direct us or guide us in any particular direction.
	And just a small comment to follow up on Finn's comment about the GAC and its concept of equal footing. I fully share his perspective, but I would just have to share with you, I think we certainly feel this way and I would put money on it that a whole lot of people in this organization think the GAC is actually first among equals if you look at the ICANN bylaws and the role we have in terms of providing public-policy advice.
	So I just wanted to clarify that.
	Thank you.

ICANN | 52
Singapore

CHAIR SCHNEIDER: Thank you, U.S. Quick correction from Stephane, and then we need to close. Thank you.

STEPHANE VAN GELDER: Thank you. Thank you all.

Just to quickly address what's been said. It's absolutely right that we are working under the same assumption as you have just mentioned that we are looking at the current structure and nothing else.

The board working group recommendations are -- they come out of the Board. There was a recommendation to vote by delegation. That is something that may or may not be suggested to the full Board and then may or may not be passed on to the community. It is my informal understanding that the Board working group recommendations are being looked at in the light of community comments that have, indeed, not always been positive, and that there will be new recommendations out in the near future.

So for us, certainly in coming to you today, we are not coming to you looking at anything beyond what we have today. The current structure, there is a seat. It's an empty seat, and our question is do you want to fill it or not? And we've heard from you today that may be or may not be difficult.

There are many questions for you in this room to answer, but at least now you have a face behind the black NomCom box, or faces, and you can seek us out and we can talk about it and that will probably help.

ICANN | 52
Singapore

So it just remains for me to thank you once again for this opportunity. It's really been valuable for us. I hope it has been for you as well. And I really hope this conversation will continue. Sitting to my right is the expected chair for next year, and I know he's anxious to continue the conversation as well. So please, let's do that.

Thank you very much.

CHAIR SCHNEIDER: Thank you, Ron and everybody. And I would also say this has been very useful.

Before you run off to the coffee break which is scheduled, this is something that doesn't go for you but for the GAC members, that we would like to spend five minutes of the coffee break informing you of a session that has taken place this morning, a consultation session. Ah, sorry, time passes quickly. It's already tomorrow today, so sorry for that. Actually, that was-of-was yesterday at 8:00, and not everybody was awake in the GAC but some were and participated in a session to give some feedback on specification 11. You remember we were asked -- Not that one. Ah, public safety. Okay. I give the floor to those who participated in that session.

Thank you very much.

PETER NETTLEFOLD: Thank you, Thomas. So there was a session yesterday morning with a number of law enforcement colleagues and GAC members to discuss a proposal for setting up a working group within the GAC to focus

ICANN | 52
Singapore

attention of clusters of issues around law enforcement, consumer protection, and public safety.

A number of GAC members, including, I think, three of the -- four of the vice chairs attended, and we talked through a number of issues, mostly procedural type issues about how such an entity could work, if it's possible; how the membership could be constructed, and so on.

So the intent of this is to bring in some of our experts into the work of the GAC and get them talking to each other, not always through their GAC representatives. So it will be law enforcement representatives from multiple countries, consumer protection experts from multiple countries, potentially talking -- well, they would be talking to each directly trying to resolve some of the complex issues that we are faced with often related to WHOIS, safeguards, the balance between law enforcement needs and privacy law and so on.

From a procedural point of view, I think it's relatively straightforward as we know to set up working groups. The Chair can move that we set it up and it's relatively quick.

My understanding or my reading of the operating principles is that there doesn't appear to be an issue with GAC representatives nominating what is called advisors in the operating principles to participate in working groups, so we could participate -- we could nominate members of our law enforcement agencies, of our privacy agencies, and so on, to participate in such a working group.

And the proposal is to set up, or at least to agree to set up this working group here in Singapore, and that they then go off to work out a terms

of reference or a charter or whatever term we decide, and an agenda and then start to report back to the GAC at the next meeting.

So my understanding is this would include WHOIS, which is complicated. The GAC is always seeking to try to find the right balance on those kinds of issues. And we recently had a communication from the Board which potentially they could help us wade through and help us figure out where the key issues or the next steps for the GAC to be interested in would be.

I'm not sure if I need to add much more, Thomas.

That's what we discussed yesterday. And I think what we would be looking for here is some agreement from the GAC to set up a working group to look at these issues. Whether we do it right now or sleep on it and then discuss it Thursday when we start to look at procedural issues in the next meeting, and so on.

CHAIR SCHNEIDER: Thank you, Peter.

And actually, there was another. There were two early morning meetings. There was another one this morning about spec 11 security. And Olof has already sent an email to the GAC list informing about that. So life is very complicated sometimes, so sorry for creating the confusion.

Please take in mind that this might actually be linked, since we talk about WHOIS and law enforcement, enforcement of law and data protection. That may also be relevant for the session that will come up

ICANN | 52
Singapore

EN

after the coffee break, and we may think of whether we -- whether these things are linked. But this is all new, so let's digest it over coffee, feed it into the next session, and then we can also continue to discuss operational activities like setting up working groups, and so on, with whom and without whom on Thursday.

Thank you very much. Now is the coffee break.

Or does anybody have an idea that would defer us from the coffee break for a little longer?

[Coffee break]

ICANN | 52
Singapore

CHAIR SCHNEIDER: Please come back. Take your seats.

All right. Thank you. Welcome back after the break. Our next session is -- I'm waiting for my agenda to open -- about international law and human rights.

We have discussed -- we started a discussion on these issues already at previous meetings. And this is a continuation.

I would like to give the floor now to the delegate from Peru who will update us on what has happened. And, Peru, please. You have the floor.

PERU: Just a minute. Technical problems.

CHAIR SCHNEIDER: The presentation is up, in case you -- okay.

PERU: I would first like to thank the secretariat of the GAC for the summary document placed in our Web site regarding our ongoing debate on human rights, international law, and ICANN. Overall, the summary covers much of the concerns around these two issues. Equally important are the other documents also posted on the Web site in which -- and which we have already been -- which have already been a matter of discussion in the GAC.

In fact, they led to the paragraphs included in the final communiques of Beijing, London, and Los Angeles, which are the ones that we can see on the slide there.

We seek to end this meeting reflecting in our final communique three basic ideas. Can we go to the next slide, please.

The interest of the GAC on these issues through a paragraph in which we clearly assume our roles as representatives of governments and guarantee -- that guarantee and ensure the prevalence of a set of fundamental principles that we know as international law and human rights. A set of notions widely recognized internationally and supported by endless debates, case studies, treaties, custom, and doctrine.

We also seek to agree on participating as a GAC in the debate that is already in course within a number of groups linked to ICANN.

Finally, we would like to propose the creation of a working group on human rights and international law.

At this point I would like to ask a question. Is it realistic to maintain that ICANN can continue working on the sidelines of an international legal framework? Obviously, not. In fact, only in recent days some GAC members have mentioned the need for a group of independent experts on international law and human rights.

This specific issue could also be analyzed within the proposed working group. Regarding this proposal, some of you will argue that neither international law nor international humanitarian law or human rights do not always represent or reflect international consensus.

ICANN | 52
Singapore

Others might also argue that both international law and human rights escape the rationale of ICANN. In the paper submitted by Peru, we quoted -- the next slide, please.

Wait, wait, wait.

In the paper submitted by Peru, we have mentioned the fact that from the very beginning, ICANN's bylaws have acknowledged the need to coexist with international law. Furthermore, although over time changes have been introduced, the bylaws have generally accepted this notion when describing one of the Governmental Advisory Committee's duties, which is in the first paragraph on the slide.

Furthermore, in the proposal of Peru, we quoted the American delegate in the 1998 white paper on the creation of ICANN, which is, by the way, a binding document, in which he stated that there was no intention of displacing other legal regimes such as international law, competition law, tax law, and principles of international taxation, intellectual property law, et cetera, that may already apply.

After so many years, it would appear that international law is implied but not explicitly embedded in the bylaws so that it is referred to.

Finally, let us remember that in article 4 of the Articles of Incorporation of ICANN, there is explicit reference to the compliance with international law.

At this point allow me to introduce another question. Do the rules and bylaws of ICANN reflect or represent the views of the majority of the international community? In any case, there is undoubtedly good faith.

And we focus our work and effort based on a higher principle, namely, the common good.

We need to add -- the next slide, please.

We need to add to the list of key issues mentioned in the ACIG summary the phrase "common good."

The common good is understood as the basic principle that links the legal order with the ethical order. The concept that explains the social dimension of individuals. Somehow the multistakeholder practice has incorporated the principle of common good whenever it refers to a community. That is happening every day at ICANN when the multistakeholder process tries to provide balance weighing individual rights and the rights of the whole community. The objective is not necessarily to enroll an initiative but to reconcile, finding an acceptable solution for everyone even if it means giving in to the demands of a community.

ICANN's intention is to apply the notion of common good through decisions that are the result of a multistakeholder process which seeks to avoid privileges and promotes applying a same range of values.

In this context, we're also debating accountability and transparency. Common good is, in fact, the cornerstone of international and national law.

Again, the three issues we would like to convey upon in this opportunity are the following: The interest of the GAC in these issues through a paragraph in which in the final communique -- in which we clearly assume our roles as representatives of governments that

ICANN|52
Singapore

guarantee and ensure the prevalence of a set of fundamental principles we know as international law and human rights, a set of notions widely recognized internationally and supported by endless debates, case studies, treaties, custom and doctrine.

Next slide, please.

We also seek to agree on participating as GAC in the debate that is already in course within a number of groups linked to ICANN. And finally, we would like to propose the creation of a working group on human rights and international law. Thank you.

CHAIR SCHNEIDER: Thank you very much, Peru, for this introduction.

As you may know, there is -- has been and still is quite a number of community exchanges going on. People are meeting for quite some time now to discuss international law and human rights as it is relevant to ICANN's mandate. And I would now like to give the floor to Lee Hibbard from the Council of Europe. I see he has been participating actively in these community discussions to give us an update on how outside the GAC these issues are discussed. Thank you very much.

LEE HIBBARD: Thank you, Mr. Chair. As you said, there is quite a lot of cross community interest in this issue. And there's been quite a lot of preparation for this meeting, particularly tomorrow. There will be a meeting tomorrow on this issue at 10:30 to 12:00 in the room Sophia.

ICANN | 52
Singapore

So I just want to summarize that there are several communities which are putting this item on their agendas for discussion. Last time in L.A. and now in Singapore. NCUC, the NCSG, the ALAC, for example, in Los Angeles. It has quite a lot of discussion already. I understand that the NCSG has spoken to the board about this last time. And I know this has been tied together with public interest and now in Singapore. I also understand that the NCUC is discussing public interest and human rights today for your information. And the meeting tomorrow is a cross community meeting to discuss ICANN's corporate responsibility to protect human rights. It's somewhat based on thinking from the U.N. resolution from 2011 on business and human rights which refers to something called the Ruggie principles. Some might think that ICANN could be considered as an "other business entity" falling within the scope of that resolution. So it's looking at that, discussing that, discussing the question of responsibility. Article 19 and international NGO has prepared a background paper. And the community has reached out to many SOs and ACs over the last days and in the last weeks to take part. So expect quite a full house.

And they're going to talk about, again, the human rights implications of ICANN's policies and procedures, strategies to help staff understand the impact, questions of compliance with international law, and perhaps developing metrics to monitor human rights performance.

So this is what will be touched upon tomorrow. The community interest is consolidating, I would say. And tomorrow will be the time to assess and to determine whether there's a desired act to go further. This could -- if there's a sufficient level of agreement -- lead to a desire to -- in ICANN 53 for a cross community working group or other group

formation to see how to plug in international law and human rights reflections and considerations and questions of due diligence in ICANN's procedures and policies. That really depends on how the community feels. We're definitely not there yet.

So I would really encourage GAC members to be there to take part. And so the two processes that you're embarking on can be synergy and complementarity. Thank you.

CHAIR SCHNEIDER: Thank you very much, Council of Europe.

The floor is now open for questions and comments. I see Brazil and -- wait a second. I note Brazil, U.K. -- okay. And the U.S. Let's start with Brazil. And France.

BRAZIL: Okay. First of all, the Brazilian government would like to commend the Peruvian representative and our colleague from the Council of Europe for this effort so far, which we consider to be an excellent start for an even greater effort of promoting human rights and international law within ICANN and its guiding rules.

As ICANN gradually moves toward being a truly global organization, it is of fundamental importance that the universal values of human rights are reinforced within the corporation's very structure and working procedures.

In -- well, hopefully, not so distant future in which we will see ICANN acting outside the jurisdiction of a single country, and, therefore, being

ICANN | 52
Singapore

coherent with its mandate of acting according to global public interest, it is essential that the company abides by the core and most fundamental principles of international law. Thanks to the initiative of the Council of Europe and follow-up of Peru here within the GAC, we have reached an interesting point in which we can trigger a permanent process of discussing this topic on a regular basis and make a formal proposal to amend ICANN's bylaws.

In this regard, Brazil would be fully supportive of the creation of a cross community effort working group dedicated to this matter. In Brazil's view the working group should take a holistic approach and identify ways and means through which all different aspects of human rights, for example, right to privacy, freedom of expression, freedom of association, access to information -- can be more evident in ICANN's rules and daily operations. Thank you.

CHAIR SCHNEIDER: Thank you, Brazil.

I have the U.K. Thank you.

UNITED KINGDOM: Yes. Thank you, Chair. And thank you, Peru, for leading off this important discussion.

And I agree. It's one that we should continue. We've discussed this on previous occasions in the context in particular of the new gTLD's round where issues about rights and freedom of expression came up. You may

remember we touched on the rights of the child in the context of gTLDs targeting children. The charter -- the U.N. rights of the child.

So I think this issue is firmly within our remit, really, in terms of how we engage with ICANN and with other stakeholder communities on issues that sometimes very obviously have ramifications in terms of rights. Maybe on other issues not so obviously.

So I agree with the intent here, really, that we try and get a firmer understanding of where rights and international laws relating to rights and freedom of expression and so on do intersect with our work and the important work we do in advising the board

So I do agree with the sense that we ought to continue and maybe structure our discussions more effectively, perhaps through GAC colleagues volunteering to be part of a group to look at these issues. To survey what's going on, as it's been noted earlier, there's a lot of contributions now from other parts of this community and outside observers about the relevance of rights to ICANN's work. The article 19 article comes to mind in particular. We've had our own consideration of a paper provided by experts from the Council of Europe. The Council of Europe has an ongoing process to look at this issue.

So -- and I'm also mindful of the change in our work in respect to early engagement in policy development. There may well be at the quick look stage when we're notified of an issue that's potentially a policy development that, you know, we might need to consider is there a rights element here? In the past we've been rather reactive. Here we can -- if we are more geared up, more cognizant of this within our remit, we can respond and advise other parts of the community directly

leading on policy development what are the rights ramifications? So I agree that we should continue with this work and that a group might form to look at it.

Question of bylaws amendments, well, that's probably something a bit further down the track when we're more sure of exactly how we formalize this constitutionally, if you like, within the ICANN model. You know, there will be review of the bylaws in the context of IANA transition. And -- **check overlap

There will be review of the bylaws in the context of IANA transition, and maybe that's the time to move in that particular direction. But let's do more exploratory work and more discussion and move this forward in sync with what's happening elsewhere in the community and the cross-community discussions that the Council of Europe has informed us of today.

Hope that's helpful.

Thank you.

CHAIR SCHNEIDER: Thank you, U.K.

I have the U.S., France, then Switzerland, Spain.

Okay. We start with these. You keep your hands up. I try to note.

U.S. first. Thank you.

ICANN | 52
Singapore

| UNITED STATES: | Thank you, Chair. And thanks to colleagues, particularly Peru for the opening discussions on this, and to Brazil and the U.K., I hope I haven't missed anybody, who have made interventions. |

 I'd like to really pick up on what the U.K. has proposed, and by stressing I think we're very much along the same lines. It is true that we, as governments in the GAC, are probably the preeminent responsible parties in that all U.N. obligations and international law are binding on states' governments. They're actually not binding on nonstate actors. So I think we have a very useful role to play in helping to inform whatever Cross-Community Working Group effort takes off or, you know, expands to include members of all parts of the ICANN community.

 I think it's very useful for us to shed light on how we individually and then we as the GAC actually abide by the U.N. human rights convention obligations and our obligations under international law.

 The GAC here does provide advice as Mark has pointed out to the Board, and we have done, and such advice does have implications for a lot of those provisions in the U.N. convention itself, whether it's freedom of expression or right to privacy. There are any number of things that we have actually provided advice on. And one thing we should consider is explaining a little bit better how we have taken the obligations under the convention into account as we develop GAC advice.

 I think I would share the U.K.'s view that at the present time it may be premature to contemplate any bylaws amendments on this topic

ICANN | 52
Singapore

because we're not -- personally, we are not very clear as to what those amendments would mean and what they would be premised on.

So again, noting that these obligations are not binding on nonstate actors, we think it is useful for the GAC to draw attention as we consider how we participate in this cross-community effort, draw attention to the fact that the U.N. itself has issued guiding principles on business and human rights. And to that end we strongly support those, those U.N. guiding principles. We ourselves have launched a U.S. national action plan on responsible business conduct. So our initiative is at a very early stage, and we're holding open consultations around the country, and we're happy to share the results of those down the road should people be interested.

We know that many other countries in this room are engaged in very similar national action plans, whether we call it corporate social responsibility or implementation of the U.N. guidelines for business. Because again, I just want to reinforce that there are some questions here. We think the ACIG briefing paper, actually, poses some very useful questions for us to consider answering. And certainly I seem to recall there was a question as to whether we would get legal advice in advance prior to even contemplating any change in the bylaws.

So I did want to suggest that there is work ahead of us; that I think governments, since we are the signatories to these treaties, certainly have a lot of information that we can share with the community.

With regard to the existing or the nascent Cross-Community Working Group, I think it's very useful for us to continue these discussions to see if we can develop GAC consensus, so that the GAC would participate as

ICANN | 52
Singapore

GAC. It strikes us that at the moment, we may want to consider part participating individually as individual members of the GAC. Certainly there are -- there is an enormous amount of consensus among governments obviously on relevant human rights issues. We could certainly reaffirm these existing -- preexisting documents, including the universal declaration, things like that. But in terms of whatever might, whatever the charter is of this cross-community -- and I confess, I have not done my homework as to what that charter says, at the moment we think until such time as we have a common GAC consensus positions on what we feed into that working group, perhaps we could consider participating as individual members until such time as it gets to a point of a charter, and then that would give us something further to work on.

Thank you.

CHAIR SCHNEIDER: Thank you, U.S., for these comments. And just to clarify, if I understand this right, this working group is in preparation. So there is no charter yet, or maybe -- So there is no charter yet. So we are perfectly in line. As the U.K. said, this is something that is in the making, basically, and we will be kept informed, I assume, by those participating in this work.

Next I have France, I have Switzerland, Spain, Netherlands, European Commission, Canada. Who else did I miss that had their hands up? Indonesia. Let's leave it at that for the moment and see where we are.

Next is France, please.

ICANN | 52
Singapore

FRANCE: Thank you, Chair. I will speak in French.

I would like to chair some views on an experience that we had in France about the rights -- right, human rights, in relation to domain names. And in particular, the framework that we can work in. And this was quite a nice legal framework and it had some provisions for the delegation and redelegation of the French ccTLD system.

The framework was too simple, and there were too many gaps. So in a formal manner we were able to use this framework in order to come up with elements that would allow us to restrict the registration of domain names; in particular, for lists with dot FR, and the blocking of some domain name zones like the -- and the delegation of some French domain names with the NF for Saint Martin.

So the highest authority in France was involved, and they are the ones who deal with the laws relating to our constitution.

Our constitution dates back from 1789, and the decision of the constitutional council was to void that legal framework that had been established until that point because it did not guarantee the human rights principles related to freedom of expression and freedom of association. Therefore, the mission of the registry office was that the domain name registrations had to abide by these two principles, these two freedoms.

So legislators were requested to explicitly explain in the law that these two principles have to be protected.

ICANN | 52
Singapore

The constitutional council reproached legislators for the fact of not having given the proper framework to AFNIC at that time, and we had to implement a new legal framework to guarantee these two freedoms.

This was -- This implied hard work. It was quite difficult, but it is absolutely necessary to go through the assembly and these changes by the legal framework meant that for registration offices, that they had to abide by the principles of freedom of expression and freedom of association.

AFNIC has been growing with domain names dot FR. That is one of the most dynamic ones in Europe.

CHAIR SCHNEIDER: Next is Switzerland.

SWITZERLAND: Thank you, Chair.

I will be very brief as a lot has been said by the previous speakers, and I would like to thank for the introduction by Peru.

I guess our feeling is that many of these issues merit further discussions and further consideration by the different parts of the community. And probably in the discussions which will be taking place tomorrow, two pragmatic issues could be, on one side, the new gTLD evaluation process, which, as the colleague from the U.K. has put forward, has impact on the human rights issues and international law. It would be interesting to embed in that evaluation process which is being kicked off this year this perspective. And on the other hand, we also see on other

parts of the community how recently an advisor on international law has just been appointed for the accountability Cross-Community Working Group and how this dimension of international law and human rights would probably be very interesting to consider the different options to improve accountability mechanisms.

Thank you.

CHAIR SCHNEIDER: Thank you, Switzerland.

I have Spain.

SPAIN: Thank you, Chair. I will talk in Spanish.

First of all, I would like to thank the colleagues from the Council of Europe and Peru for this introduction and for the wonderful work that they have done. I truly appreciate that.

In Spain, we understand that it is fundamental to consider human rights implications and implications of international law for all ICANN activities. Very specially, and this has been described by other colleagues, we see human rights and international law discussions taking place increasingly in the ICANN activities, and this should also be reflected in the ICANN activities that are taking place right now. Mainly, the evaluation of the new gTLDs and the accountability process.

In both cases, we believe it is fundamental to consider these dimensions in ICANN work.

ICANN | 52
Singapore

In this regard, we suggest that GAC should recommend that ICANN and the community should look in the relationship of human rights and international law in all its activities.

CHAIR SCHNEIDER: Thank you, Spain.

NETHERLANDS: Yes, thank you, Thomas. I will be very brief. I acknowledge the work which has been -- being done, and I completely or we completely, let's say, support and share this initiative.

I would, however, add one additional thing -- two additional things. One, first, is what's the -- let's say, what is the real goal of this exercise. And I would say the goal of this exercise is also to get human rights fundamental values much more into the procedures or also the PDP, the policy preparations of ICANN. So for me, it's all a matter of not only getting expertise in on international law, but also to get a kind of, let's say, change in mentality of having a broader perspective when preparing policy.

The second point I would add is that we have in NETmundial in Sao Paulo, we have set up a set of general principles and shared values between many countries and organizations which are specific for Internet governance. But I would also ask the working group and the people who are in there to also consider this. It's not -- Maybe it's not qualified, but still, these are major principles which are especially, let's say, targeted add Internet governance and also the work ICANN is doing in the multistakeholder model.

ICANN | 52
Singapore

Thank you.

CHAIR SCHNEIDER: Thank you.

Next is European Commission.

EUROPEAN COMMISSION: Thank you very much, Mr. Chairman. I don't want to repeat what's already been said by everyone else, but a lot of very useful and interesting contributions have already been made. And in addition by many of the EU member states, of course.

So we echo those, of course. Congratulate all those who have done so much work on this. You know, I think that, we attach a lot of importance to the proper application and use of international law and, in particular, the human rights elements of those within the work of ICANN and ensuring that ICANN in carrying out its mission and reviewing the implications of its actions take those into consideration.

And just to add to what has already been said -- I'm not going to repeat everything that's already been said. And so we encourage the work to continue, obviously.

I think another area where the working group could usefully contribute and help the ICANN operations is in the context of the public responsibility programs that are being carried out, which are right now trying to look, as well, as how ICANN operations can increase and work with public interest at heart.

So all the work of these groups would also help feed into that. And I think this is a very good initiative.

CHAIR SCHNEIDER: Thank you.

Next is Canada.

CANADA: Thank you, Mr. Chairman. And thank you to our colleague from Peru for initiating this discussion within the GAC.

Examining questions of human rights in relation to the work of ICANN is a matter of considerable interest within the GAC, I think as we've seen, and across the ICANN community. And we think it's important for any discussion within GAC to remain in step with those already under way, such as the cross-community conversation that has already been mentioned.

As we further our discussion we should remain open to considering a range of options of how best to proceed before deciding on a particular course of action. And as has already been mentioned, this may be best undertaken through a cross-community process or collaboration among the GAC and other supporting organizations or advisory committees.

So we would have to concur with colleagues from the U.K. and the U.S. that a decision to amend the bylaws is premature at this stage.

Thank you.

ICANN | 52
Singapore

CHAIR SCHNEIDER: Thank you very much, Canada.

Next is Indonesia.

INDONESIA: Thank you, Mr. Chairman. Tom, just mentioned before these sessions regarding the law enforcement agency activities enforces the privacy law, which is also part of the human rights.

Now in cyberspace it will be more important because you can make a cross-country cybercrime.

To give an example to see how easily it can happen and why we need this to be expanded is a particular study carried out by ITU Southeast Asia where we did a mock court two years ago, look at Indonesia, where we make a mock court where a particular lady in country A make a particular request to a Web site in country B, if I'm not mistaken. That is a (indiscernible) test. I might be wrong, this particular test.

The problem is in country A, that test is legal, while in country B, country B it is illegal. Know what happen? In that mock court, the ITU mock court, the company in country B doesn't like that and filed the case to the local police in country B. Unfortunately, the lady from country A came to country B for holiday, and she was -- in that country B she was then arrested, go to the court and found guilty.

Now that is the mock court carried out by ITU of Southeast Asia. And because of that mock court, further study was done by ITU group Southeast Asia and also part of the ITU legal group in Geneve. Now this will be part of the discussion within the ITU later about how countries

should look after a problem like this so there will be no problems between countries.

And, Tom, that is the reason why this morning I mentioned it is important for at least for me and perhaps for many of the GAC members, because we also sit in the ITU Council and will discuss this matter, too. So that it is one of the many reasons why we would like to know what is the status of discussion between ITU and ICANN? Are you -- Are ICANN and ITU also tackle the same problem like this or we see the different -- the problem from a different position, differently, different legal system? How can we handle this?

If it is handled by the ITU group, what kind of international law we will use. And if it is handled by the ICANN group, law enforcement agency within the ICANN, how we can handle this.

So I think the communication between this can be -- can be discussed. And so because most are the same person, you know, sitting here and sitting in Geneve, so it will be useful for us if we have to discuss problem like this.

Thank you, Tom.

CHAIR SCHNEIDER: Thank you, Indonesia, for this interesting example and the relevant question.

Any other comments, questions?

Morocco.

ICANN | 52
Singapore

MOROCCO: Thank you very much. I will speak in French.

First of all, I would like to appreciate the work of the Council of Europe and of Peru because they have put on the table this important aspect of Internet governance that is human rights and international law.

So first of all, I would like to make a comment, then to remember certain principles regarding law and policy. The governments we're representing here, I was reminded by the representative of the U.S., has the primary responsibility and legal responsibility of ensuring and securing the protection and enforcement of human rights.

Governments are the signatories of international treaties currently in force that are related to several aspects regarding the rights of children, women, human rights, freedom of expression. So it is difficult to accept, from our perspective, that some other actors, some other stakeholders that are not states, have not responsibility of implementing these treaties, will do so.

Secondly, the role of the working group should be defined by us so as to know the mandate of the group, the purpose of the group, and the outcome of that group, bearing in mind that in the council of human rights and in the United Nations in New York, there's currently a discussion about the freedom on the Internet and the freedom of expression.

The third point I would like to make is that we should not limit the work of this working group to certain specific aspects such as freedom of speech, of privacy. There is some other aspects that are also

ICANN | 52
Singapore

fundamental, and so we should not limit the mandate to those two aspects.

 We may include protection of vulnerable groups; the right to have Internet access. These rights should also be included in the topics to be discussed by the working group.   But my question is the following. What will be the mandate of this group? Do we have any clear idea of what that mandate would be for this working group, what would be the outcome of the deliverable of this working group?

 Thank you very much.

CHAIR SCHNEIDER: Thank you very much for these questions and these comments.

Any other person willing to take the floor? Any other representative?

The next question is how to move on. Apparently there's a unanimous feeling that we should continue to work on this.

As far as I understand, there are two different -- two different aspects. One is how to move this on in the GAC, and whether or not to create a working group in the GAC that would look at responsibilities of governments, to what extent these apply in the field that ICANN is working on, what the role of government is or of the GAC is. And the other path is the discussion in the community and the potential participation of GAC members or the GAC in such a community framework, which is about to -- which is in the making.

For both these groups there are no -- the way I understand it, there are no -- there's no charter for a cross constituency working group yet. In

case it would be the consensus to create the working group in the GAC, of course, we would need to develop terms of references for that group, what this is about and what it is not about as well. So what is -- how do we move forward? What is the conclusions we take of this discussion? Thank you. European Commission.

EUROPEAN COMMISSION: Thank you, Mr. Chairman. Just a proposal and a question, really, to the GAC and to you. It seems to me that since international law and human rights are really -- not entirely exclusive, but, primarily, the competence of public authorities, governments, et cetera, would it not be useful -- but, of course, with implications everywhere on businesses and consumers and citizens, et cetera -- would it not be useful to have a GAC working group which is a member or which allocates members to the cross-community working group so that you then don't have two parties working at cross purposes. They all work together. Then you can have more detailed GAC-related public policy related discussions within a GAC working group. But it also feeds into the cross-community working group. Seems to me the two are rather useful. But without creating too many more structures and functions, perhaps that's a solution, just an idea.

CHAIR SCHNEIDER: Thank you, European Commission, for this proposal. Is that something that the others would support that we would try and not create too many structures? I see some nodding. Any comments? So then that would mean that we would work on creating a working group through

developing terms of reference that would then need to be adopted by the GAC, I assume? Is that the conclusion? United States?

UNITED STATES: Thank you, Chair. And thank you to the EU Commission. I think this is an interesting idea to move forward. Just a question for clarification. Obviously, all working groups are open to all GAC members. We all know that. But, presumably, to the extent there is a work plan, it is actually to share information about each other's respective methods of implementing our treaty obligations? We're actually at this point, from what I can tell, speaking for ourselves or sort of sharing information as to how we are guided by our treaty obligations and how we encourage the application of the U.N. business guidelines. Because, again, we cannot bind non-state actors. So is it to sort of share information with each other that then might be useful for the cross-community working group? Just a small point.

CHAIR SCHNEIDER: Thank you, U.S. On your first point, I don't know of any working group that has a limited membership in the sense that whoever is interested cannot participate. Normally, it's the other way around. We try and digest and manage resources in a way that -- yeah, all these working groups are somehow alimented.

With regard to your second question, that's in the hand of the GAC to define -- of those interested to shape these terms of reference. I would say at the end there needs to be a consensus on the terms of reference. That's how I would see the procedure, if you would agree. U.K.?

ICANN | 52
Singapore

UNITED KINGDOM: Yes, I think it's a bit open, the terms of reference. But I would see it being wider than what has been described by the U.S. I mean, I think a valuable objective for the GAC is to sort of formalize its handling of this issue in its engagement with other parts of the community and, indeed, in its interaction with the board at the stage of submitting advice on the issues.

So let's invite volunteers to contribute to a working group in the period between now and Buenos Aires. And also that they contribute ideas in terms of objectives that would be captured in terms of reference and then report back to the full committee and before Buenos Aires. And then we take a decision on the constitution, formal constitution of the working group, if you like, with a chair and so on.

In the meantime, continue to track the discussions that are taking place in other parts of the community. So a report back from the cross community discussion tomorrow would be extremely valuable, I think. Thanks.

CHAIR SCHNEIDER: Thank you, U.K. I see Australia and the European Commission.

AUSTRALIA: Thank you, Chair. And thanks to all who have gone before. It seems we're reaching a very useful phase in this discussion and starting to talk about how to take this work forward in a useful and coordinated way.

ICANN | 52
Singapore

One thing I thought I might add to the discussion is just before the break we talked about forming a different working group, one to look at public safety and law enforcement issues.

And it seems to me, anyway, that there's likely some overlap between these two potential groups if we think about, say, the issue of WHOIS. And there has already been mentioned one of the subissues that may be considered under human rights agenda is data retention. That's also a discussion that happens with WHOIS. So I wonder if informing -- if we do go down the path of forming two groups and they go and work up some forms of reference, then we either get those two groups to coordinate and then consider whether there's overlap with how best to manage these two groups with overlapping content, I guess. So just wanted to add that to the discussion.

CHAIR SCHNEIDER: Thank you. European Commission.

EUROPEAN COMMISSION: Thank you very much. Not to echo what the U.K. has said, but I will, I would have thought that the exchange of information amongst and between governments is extremely useful, of course, in how they apply human rights and international law in this context. But I would have thought you want to go much beyond that to provide guidance and identify principles for ICANN itself in applying some of these principles to its activities and where there are unintended consequences that might have implications. So I would add that as proposal for your terms of reference, not to forget it for the rest.

ICANN | 52
Singapore

CHAIR SCHNEIDER: Thank you. We take note of these proposals. We don't have the time to develop the terms of reference now. And with regard to the -- the mentioning of Australia, we haven't had a lot of time to discuss the potential creation of a working group on public safety and/or law enforcement. But what we may have -- take this on our procedural discussions on Thursday. And then, just thinking out loud, may also think about terms of reference of such a group and then look at the two terms of reference, the two drafts. And, if they're significantly overlapping, we may consider merging them. If they turn out to be significantly different, we may consider not merging them and take decisions based on drafts of what we get. This is what would be my initial proposal. But just as an initial reaction to a new development. But we can continue to work on this on Thursday. And then -- if that is okay for you, it's -- if there are no more requests to speak on this item, we would then go to the next item, which is WHOIS where we allocated 30 minutes to look at this.

I would like to give the floor to our colleagues from ACIG that will brief us about what is going on and what may be needed in terms of work or feedback from the GAC.

And, in case we may have time -- in case we may not need the full half hour, then we could have a look at the discussion on the invitation of the GAC to participate in the cross-community working group on Internet governance. But this is only because we haven't had the space for this because this request came up late. In case there might be some time, we could use that.

ICANN | 52
Singapore

But let's start with WHOIS and Tom, please. Go ahead.

TOM DALE: Thank you, Thomas. Back on the 23rd of January when you were all anticipating your travel to Singapore, a letter from the board to the chair of the GAC was circulated to the GAC list that contained a detailed response to the GAC's Los Angeles communique. Included in that was an attachment concerning WHOIS. You will recall that the GAC in the Los Angeles communique asked for a roadmap, as it was termed, of the full range of WHOIS activities and their plans for rollout. And the Board replied in that letter that was circulated to you by attaching a comprehensive summary of WHOIS activities planned across ICANN for 2015. So that was the roadmap.

A number of issues that the GAC had previously expressed particular interest in or concern about are covered in some detail in that document including the next steps with the WHOIS accuracy reporting system, our continuing work on the group dealing with WHOIS conflicts with national privacy laws. And I know some GAC members, including the European Commission, are participating in that group.

There is information there concerning the gTLD directory services Expert Working Group. This is the future of WHOIS and other services, which is, apparently, moving to a policy development process later this year or is expected to.

So there's a great deal of information within the roadmap. It appears -- on the basis of the briefing that the ACIG has done previously, it appears

ICANN | 52
Singapore

to address all the matters on WHOIS that GAC has previously expressed some concerns about.

Just one specific item in conclusion I would draw your attention to. That roadmap includes a summary of the state of play with the GNSO PDP on translation and transliteration of contact information, which is a particularly important group for many members. Thailand, through Wanawit, participated in the work leading up to the publication of the initial report late last year. The public comments have closed now. But it's expected to move to a final report by May possibly we final approval by the GNSO in July. There is still opportunity for GAC members and GAC to contribute to that particular process on translation and transliteration of contact information.

And I would draw your attention to that in particular. That's a quick overview of the latest response from ICANN on WHOIS. Thank you, Chair.

CHAIR SCHNEIDER: Thank you, Tom, for this update on what has been going on with regard to WHOIS. Any comments or questions? In particular, what I think we should see is whether there's some action required from the GAC to react on something that is going on or not for the time being so that we see what is coming up in case there is something coming up. Comments and questions, please. Australia.

AUSTRALIA: Thank you, Chair. No particular comments on the update. Thank you very much, Tom.

ICANN | 52
Singapore

Following my earlier intervention, I think it might be useful to potentially look at including some WHOIS issues in the terms of reference in both of those working groups potentially early on in their work agendas. So I think there's a great deal of synergy and crossover with the issues from our last few sessions.

CHAIR SCHNEIDER: Thank you for that comment. Other comments or questions? If there are no comments, questions, or no indications to required actions in the near future, then I think we can leave it at that with regard to WHOIS for the time being and stay vigilant of whatever may come up where -- in the future.

With this we have a little bit of time to, if you want, to discuss this invitation to participate in a cross-community working group on Internet governance. From what I know, this is an initiative that has started in the ALAC as they have been trying to look at the broader picture of Internet governance and also raise awareness of other fora and other issues including IGF and so on and so forth relevant also for the multistakeholder approach.

Does anybody have some more detailed knowledge? And I think then this has turned into something that is now a cross-community working group. And we are not a member of this working group so far. Does anybody have more detailed knowledge about this working group? Because we may need a little bit more information to decide whether or not and how to participate. Yes, the U.K.

ICANN | 52
Singapore

UNITED KINGDOM: Well, you've hit on -- thank you, Chair. You've hit on the problem. I mean, I don't have any knowledge of the scope of this cross-community working group. We should be there. We're leading on so many of the critical negotiations in the U.N. system on Internet governance in the context of the WSIS+10 review. There are colleagues here like me who are actively involved in those negotiations. But we're working here in the GAC. We're missing out on these cross-community working group discussions where we can impart some very useful contributions, I'm sure, from a knowledge of U.N. processes and so on.

So I think, if a message could go out from us that we should devise a scheduling strategy that enables us to engage directly with this cross-community working group, I think that's very important.

I would just flag one other issue. I understand from our agenda that the ICANN CEO is going to brief us on the NETMundial initiative. In our meeting -- during our meeting with the board. Is that correct? That is another important development in the ecosystem of Internet governance where many of us are either directly engaged or having a watching brief and having to advise ministers and so on. So I just flag that as one element here that we should be very mindful of given ICANN has a partnering role in the NETMundial initiative. Thank you.

CHAIR SCHNEIDER: Thank you very much also for bringing this aspect in. I think we asked the board to inform us. We proposed to ask the board to inform us about NETmundial in our exchange tomorrow morning. Trinidad and Tobago, Tracy, you may have some additional information.

ICANN | 52
Singapore

TRINIDAD AND TOBAGO: Yes. The cross-community working group on Internet governance, my understanding is it's to be chartered. That's the issue right now. It does exist in an ad hoc form. Previously, Heather Dryden, chair, was participating in that group on her ad hoc capacity. As a matter of fact, I had to shadow Heather's role in that group. And I participated in a few calls. I recall, actually, updating the GAC a few meetings ago prior to NETMundial. The major outputs of the group at that point was a statement from the ICANN community on NETMundial which was presented in NETMundial in the submissions made at that time.

Since then, they've had a few calls. There's a mailing list. And, largely, discussing the charter. I think it's version X, version 5 -- I think they're on version 5 by now. And also, logistical issues and whatever Internet governance issues that may have come up.

So the -- what I imagine has happened now is that they're trying to formalize the group from an ad hoc loosely aggregated group of people into formally chartered organizations. So, given that the GAC did have -- or was invited to participate before in an ad hoc capacity, it might be useful to consider supporting that group and supporting the charter. Thank you.

CHAIR SCHNEIDER: Thank you, Tracy, for this valuable information.

I have Egypt.

ICANN | 52
Singapore

EGYPT: Yes, thank you, Chair. Just to concur with the U.K. on that we -- I'd rather we joined the Cross-Community Working Group on Internet governance.

I was referring to the email sent by Olof, and they have the objective and the scope of activities, and they are concerned with all issues, processes, and discussions regarding -- they mentioned that everything regarding the transition and the accountability is out of scope. They discuss more general IG issues like mentioned before, the NETmundial and other issues.

I think we need to be there. I have to warn everyone that they are a bit active. They have their own conference calls. I joined one by mistake (laughing), so we have to consider our workload.

Thank you.

CHAIR SCHNEIDER: Maybe we can ask our secretariat to participate in the call and give us a briefing. Like get some innovative working methods to somehow cope with this.

We will follow-up on our working methods on Thursday and take this into account.

I guess Olof just wanted to inform us about that mail he sent with information.

Thank you.

ICANN | 52
Singapore

OLOF NORDLING: Yes, indeed. Just to add a few. This is Olof Nordling here, to mention that it took some time to develop the charter like Tracy as mentioned, but now they have finalized the charter. So the version 5 is the final and current version, which a number of SOs and also ACs have signed up to.

So it is in full swing. And they even had -- they had a meeting in Los Angeles, and they had a meeting also here, I think, or if it is today.

Well, consider it as established, and with a functioning charter. So, well, that's the current status, at least, even though it took almost a year for them to finalize the charter.

CHAIR SCHNEIDER: Thank you for this. We're getting more and more information so the picture gets more and more clear, which is good.

The U.S., you are next.

UNITED STATES: Thank you, Chair. And thank you all for sort of this update.

I have more of an administrative sort of request to anticipate our discussion on Thursday. If we could have a matrix that outlines how many Cross-Community Working Groups are currently under way and how many GAC working groups we currently have, because we've just agreed to create some new ones. And I think it might be a useful tool for us if not a horrendously shocking wake-up call to simply see the scope of the work and ongoing activities. And as a, perhaps, secondary step, we also need to, I think, recognize that a lot of these other

ICANN | 52
Singapore

working groups, cross-community groups, are meeting at the same time as the GAC meeting. And this presents us with enormous challenges.

Now, the whole meetings schedule is enormously challenging for every part of the ICANN community, but I think we need to be guided by that, if you will, so that we don't set expectations a little higher than we should if we're not able to actually attend those meetings. So it's an administrative request and suggestion.

Thank you.

CHAIR SCHNEIDER: Thank you, U.S., and I think there's no objection to what you are saying from nowhere. Just for your information, I don't know who of you participated in the SO/AC so-called hot topic session that was on yesterday where we discussed workload prioritization, information management, improvement of information access, including Web site, because on the ICANN Web site, there's no easy accessible list of CCWGs, or whatever you call them. The same goes for there's a list of working groups on our GAC page, but we are about to renew the Web page. So this is a very, very valid point to look at in general, and in particular for the GAC on Thursday, I would say.

Egypt, you would like to add something to this? Thank you.

EGYPT: Yes. Thank you, and again, I would like to concur with what Suzanne mentioned. And just on the administrative side, again, if I may suggest that we can have some sort of a calendar for our work highlighting the

various deadlines also, so maybe we can face ourselves with how many deadlines we have. Because we have been receiving emails for public comment periods with certain deadlines that we have to meet. So if we have also this in one calendar, I think it would be useful for our work.

Thank you.

CHAIR SCHNEIDER: Thank you. That actually reminds me of the fact that we had a survey and were invited to make comments on the renewal of the Web site and elements that would be useful to consider when doing that. And I guess this is something that we would use the Web site for and we would all agree to use the Web site. And I see Michelle nodding, so she's listening.

And in case -- Because many of us may, due to other workloads, may not have had time to comment to her proposal with the Web site. If you have easy ideas that you can just type in an email and send it to the GAC or Michelle, I think she will be happy to take that on board, because these are maybe small items, but if they sum up, they can make our work much more effective, and I think we're all happy if we help each other make our work effective.

The U.K. I see the U.K. wants it take the floor.

Thank you.

UNITED KINGDOM: Yes, thank you, Chair. Sorry for coming back in. I will try to be brief.

ICANN | 52
Singapore

I just think that we're hitting on a bit of a problem here with this committee in terms of the meeting scheduling and so on, as the U.S. has highlighted. We're getting engaged in many issues and we're forming subgroups and so on, and then we're trying to engage with other groups in the community which are equally important. They may need us there, or we really want to be there, to be engaged. And I just have a problem with every ICANN meeting that, okay, we have this day off on the Monday and we can go interact and see what's happening, go to meetings there, but there's stuff going on throughout the ICANN meeting on every day, and we're missing out, you know.

And if we can sort of think about how we can be a bit more agile, you know, to take into account what's going on elsewhere, where governments need to be present and so we create space in our own schedule to allow that to happen, and then come back to our work.

But I readily acknowledge that we have a lot of work on our plate we have to get through, so that creates intense pressure and limits our ability to be agile in terms of engagement across the community.

But I think it's a problem. And maybe some free thinking about how we address that problem is timely now.

Thank you.

CHAIR SCHNEIDER: Thank you. And again, I think this is absolutely fundamental, what you're saying. Just another piece of information.

ICANN | 52
Singapore

We will have again a briefing on the meeting structure -- meeting strategy structure -- meeting -- whatever. We will find out how, from next year on, there will be changes in the meeting -- the way meetings are held. In particular, the middle meeting, the one around June will be shorter, and that will have an effect, again -- or to put it the other way around. We will have to consider this in addition to when we rediscuss and rework our working methods. But I am actually confident that there is still room for improvement in better structuring our work, better communicating and working out timelines in a way that we are better informed about deadlines that we know better than this may have been the case previously on what to concentrate on when, how to allocate timelines. And if we know these things in advance, we may also find ways to divide our growing membership in a way that some people may go somewhere while being represented in discussions elsewhere.

So this is something that we will need to be innovative, maybe. But there are some elements there we can also use from experiences in other areas.

But this is an issue, and we will need to tackle this. I hope we have a little -- at least enough time on Thursday to agree on the next steps in this thinking, because this is an urgent matter. So thank you for raising this.

Egypt.

EGYPT: Just throwing some food for thought. And, yeah, I think we need to discuss this in light of the new strategy for the meetings.

ICANN | 52
Singapore

And I think we even need to discuss it maybe at a broader context within the overall ICANN planning, because, for example, if we have the short meeting for, like, Cross-Community Working Group discussions only on one or two themes that we agree on, this may be focusing on the cross-community exchanges.

But, again, we cannot discuss this alone here within the GAC, so maybe it has to be discussed in a broader context.

Thank you.

CHAIR SCHNEIDER: Thank you. That's a good point. We also need to know how others want to shape this middle meeting, and that will have an effect on our working methods.

We slightly got off from the initial question about the cross-community constituency Working Group on Internet Governance.

What is the way forward with this? Do we say -- one proposal would be we have a look at the charter, which is apparently final now, and for the time being, individual GAC members can participate, those who want and have the time, we think about formal adoption of the charter at the next meeting. That would be something that comes to my mind, listening to this discussion.

Is that -- Yes, CTU.

CARIBBEAN TELECOMMUNICATION UNION: Thank you, chair. I heard you say the charter was final.

ICANN | 52
Singapore

I had the opportunity to actually attend the meeting of this Cross-Community Working Group on Internet governance yesterday, and I heard it mentioned there that they intended to make at least a refinement to it as regards membership and the number of representatives from the various supporting organizations and committees. So I think we could some expect some -- an additional slight change coming. Probably -- probably as early as this meeting.

And also to mention that there is a public meeting on this issue on Thursday that's scheduled on the agenda that members can also -- if they have the opportunity, take the time to attend.

Thanks.

CHAIR SCHNEIDER: Thank you. That is again adding to our picture in terms of information that we're gathering on where this working group is standing.

I think that will not fundamentally affect our schedule. We'll just wait until we have a confirmed final, final, final charter. We'll circulate it among GAC members to give everybody time to look at this while, in the meantime, it's free to everybody to assist the meeting that has been alluded to on Thursday and any other activities of that group, be it in a mailing list or in a phone call or whatever there may be. And we try and have another look at this in terms of a formal membership at the next meeting.

All right. I see no further requests.

Indonesia.

ICANN | 52
Singapore

INDONESIA:	Just a small thing, Tom. I followed the CCWG meeting yesterday, and I went there because I was told that they will discuss Internet governance. That includes also preparation of the next IGF, WSIS, and also part of the ITU discussion with ICANN. Although it comes out that it just -- it just give the macro information, general information, not on the details, while what I need more is actually the detailed information as to what CCWG has been discussing with the WSIS team and IGF team or MAG team and so on.

Why I do that? Because me and also, I believe, many of my colleagues here also have to prepare something for the WSIS, for the MAG, for IGF, for the next ITU Council meeting, you know. Every Internet governance goes back to the same office. Whether me or my friend sitting next door to me will do the speech of the minister, you know. (Laughing). Sorry to say that, but that is -- most of us here are civil servant who has to do that.

Now, I found that it's important, but I personally think that the way that we have carried out the activity of GAC where we invited group by groups to discuss with us, I found it is very interesting. And it will be more -- more useful if, in the GAC Web sites, we can get alerted by any development of its group.

I myself found that Olof Nordling's email to us is very useful to show the -- was it the short information about many reports. It will be also useful if -- more useful if ICANN asks anything to the secretariat, then get the response directly. For example, oh, I have to go to the MAG. Is there any discussion between ICANN and the MAG team who can given

ICANN | 52
Singapore

me information on these particular things? And that will be useful for the GAC members, useful when I have to do coordinations in a country with other multistakeholders and prepare all this preparation for the many Internet governance meeting. And as you noted, there are so many Internet group in the world today. We have many meetings almost every month I think, and I found also that the meeting of the GAC members even in this room is very useful. I talk with many other GAC members for the preparation of many international meetings and I found it useful.

So if you can arrange that in the next time meeting where you say it will be shorter, you can arrange that more efficient where we can meet and discuss with all the groups related to our job as the GAC, that will be very useful for us.

Thank you.

CHAIR SCHNEIDER: Thank you very much.

I think we can leave it at this for the time being, and I'm being informed that we actually were hoping to have a few minutes in addition on a quick feedback from the spec 11 security framework discussion of not today but yesterday morning. And Wanawit, Thailand, would you give us a little bit of information what has been discussed there and what next steps may be.

Thank you.

ICANN | 52
Singapore

THAILAND: Thanks to Olof who circulate the mails. I like to point out the important update security framework 11. There are a lot of working group going on which is not relate to the GAC advice. What I mean in the security framework is important to the GAC as a whole because it reflects from the Beijing communique, which we have been state clearly, it's a safeguard that's applicable to every gTLDs. And the subject in the annex state about security checks. You can read it through, but I skim two or three aspect that the GAC should be aware of.

First, we convey message clearly about the contractual oversight. Secondly, we talk about the (indiscernible) how often it should do the security checks.

Last but not least is we state quite clearly about when the incident of security -- I tried to simplify the words, but if the security threat happen, the registry when they know, how they will inform the registrars, and what is the immediate actions need to be taken.

That's the basic ideas of what we talked in the GAC communique in China. Again, I'd like to emphasize that it should apply to all new gTLDs. The issue from the report we have is they put the frameworks from the NGPC. That giving a five frameworks. That, to my knowledge, is not really giving the answer to the GAC communiques.

Thanks to the comments that we received from Sweden from Spain and U.S. on the security framework. But it's still based on the security mechanisms. I do see the important -- we raise the concern to the working groups that we need to find the answer on the procedures between the registry and registrar when the incident in the matter of security happened, how these will be addressed. We not want to see

the security metrics, what mechanism used, what technology used, discuss about the -- they call it the specification that attached to the PIC spec 3B and only state basic security like phishing, botnet, malware. And we're not going enter into that detail. It is the role of them to handle it.

But what I'm concerned is how they address the issues and still have to see -- I think we give the answer coming out as best practice, which, again, is up to the GAC to see. Because we have been stated clearly that it should be contractual oversight. So how this reflects between the registry and registrar contract between ICANN and how is oversight is still the big question marks from what I see from the security framework working groups. And I think we need to give them more replies and address what is stated clearly in the Beijing communique. And that -- Olof, do you have anything more to add.

CHAIR SCHNEIDER: Thank you. Any questions or comments? Olof, yes.

OLOF NORDLING: Just add a few items. From the ICANN staff they expressed or invited GAC comments to five questions. Well, so far to date, there have been three contributions, written contributions that's been provided to the ICANN staff. And they were very grateful for that. They heard from Switzerland, Spain, and the U.S. But -- and there was an initial deadline for the first three questions, so the 30th of January. And they would happily receive further input also on those three and certainly for the

two, question 4 and 5, and any additional comment that can be made like Thailand just mentioned.

So, while I just encourage more input to this process, and I'd be happy to convey it immediately to those drafting now for the framework which -- with an aim from the ICANN staff side that I provided for and have it prepared for the Buenos Aires meeting, there will be, of course, also public comment period. So, I mean, in that respect, there are -- there will be additional ways to provide input. But this is in order to make the first draft of it. So just to have an idea about the timeline. Thank you.

CHAIR SCHNEIDER: Thank you, Olof. So we have another deadline for the second set of questions that we received. But I just want to pick up and highlight -- and we may also somehow communicate this again after this meeting that everybody is invited to -- despite the fact that the deadline has passed a few days ago -- to those who can, look at these questions, talk to your relevant offices and agencies, and come up with some comments. Because, again, here it was the GAC who requested that we've been -- that we should be consulted. And we should really also be mindful of the workload. But we should try and comment on this, because it raises the probability that the end solution that suits all stakeholders is found.

So those who have the time please look at these questions and send your comments -- can send them to the GAC list. And Olof will forward them, or send it directly to Olof. But I guess it would be, actually, also interesting to let the whole GAC know what comments you sent.

ICANN | 52
Singapore

Any questions on this? Yes, U.K.

UNITED KINGDOM: Sorry. What was the deadline? Sorry. I missed it if -- sorry. I missed it if the deadline was given. Thank you.

CHAIR SCHNEIDER: I think the second deadline is somewhere in March. Beginning -- I don't have it in front of me. Olof, you will say.

OLOF NORDLING: Well, the first deadline of 30th of January may have been a soft deadline. But the second deadline is the 20th of March, and that's a pretty firm one. So, well, although comments would certainly be welcome even after that. But it would be most useful before that date.

CHAIR SCHNEIDER: Thank you. And you can be sure that somebody will send out an email that on behalf of the leadership team you will be reminded and so on and so forth. So we'll take care of this. Thank you very much.

With this, if there's no more questions on this, I would like to move to the last item for tonight on the agenda, which is the preparation for the board meeting of tomorrow. I will not go into detail about the history of why this board meeting is in the morning. You know that the board has asked for having another time than the Tuesday evening that it has been until recently because that was at the end of a hard day for everybody. And it was thought that it might add to the awakeness and

ICANN | 52
Singapore

atmosphere of the discussion if it was not at the very end of the day where everybody's tired. So this is one of the main reasons why we have it now on Wednesday morning. That also gives us some time between discussing what we're going to -- or plan to discuss with the board of now and to actually prepare when the actual discussion will be taking place.

We have already been asked by the board to give them some indications about issues that we would like to raise. And they have been sent around by Tom. If I could ask Tom to quickly repeat what we have so far as indicated draft issues sent to the board. Thank you, please.

TOM DALE: Yes, thank you, Thomas. You recall we asked for comments on suggestions to give the board a heads up on issues that the GAC may wish to raise with them at the meeting tomorrow morning.

The list that was sent to the board reflecting GAC's suggestions was as follows: New gTLDs safeguards. In particular a follow-up to the teleconference that was held between the GAC and the NGPC on the 14th of January. New gTLD program reviews and assessments. Use of two-character labels at the second level. ICANN accountability and the IANA stewardship transition. Internet security challenges. And, finally, an update on the participation of the ICANN CEO in the recent World Economic Forum meeting in Davos in relation to the NETMundial initiative. And the board, I understand, was made aware that that list is likely to change closer to the time of the meeting because we have this

ICANN | 52
Singapore

session scheduled now to get some more suggestions. Thank you, Thomas.

CHAIR SCHNEIDER: Thank you. So we have a number of issues. Any comments on this list? Yes, African Union Commission. And Nepad.

NEPAD: We would like to raise the issue of the delayed delegation of dot Africa with the board.

CHAIR SCHNEIDER: Okay. I think this is something that we can do. So that will be added and communicated as well to the board.

Other proposals? I see China.

CHINA: Thank you, Chair. We would also like to raise the -- like to request of the board maybe to give some information about the progress on the ATRT, with the implementation of the ATRT2 and when the board is considering to initiate the ATRT3. Thank you.

CHAIR SCHNEIDER: Thank you, China.

I have a question there because -- we are -- we have had a session on implementation of ATRT2. But did you mean the whole framework in general? Okay. We note this.

ICANN | 52
Singapore

Other views or comments rather? Indonesia.

INDONESIA: Also latest information for discussion within ICANN and ITU.

CHAIR SCHNEIDER: Yes, thank you. We can add this.

I'm just checking about how long that exchange is in order to see how many items -- it's one hour. It's from 8:30 to 9:30. So we will not have time -- equal time for all the issues. So we might have to prioritize maybe -- would it be possible to put the list up so that we have it in front of us of -- or -- at least the old version of the list that was sent in an email? Maybe, in the meantime, I can give you an information that you may think useful with regard to the first item on -- on that draft agenda, which is the new gTLD safeguards. We were rather spontaneously -- or I was rather spontaneously informed that the NGPC had yesterday convened a meeting with all involved parties to discuss safeguards and PIC specs -- specifications and PIC DRP.

And that meeting took place last night starting at 9:00. Supposed to last 90 minutes. At the end it lasted 150 minutes. But it was very interesting. I asked whether I could bring a few more people along. And I contacted the GAC leads on safeguards, which is the U.S. and European Commission, to participate with me in this meeting. And we had people from ALAC, from the business constituency, and a significant number of people from the registry stakeholder group with the NGPC. And, basically, with the view to try and figure out a way on where we are and potentially how -- who should move forward how.

ICANN | 52
Singapore

And we spent quite a lot of time explaining our positions, our ideas, why we were demanding for something -- or why others were thinking that this was exaggerated or not necessary. And that -- at least that part was very helpful because everybody knew better why the other one had taken the position that it took.

With regard to moving forward -- this was an informal meeting, so it was really an attempt to increase informal interaction which was by the NGPC that was welcome by everybody. So this is -- no decision was made. This was really an attempt to get people together and try to better understand where a solution or a way forward may lie.

It was agreed -- and correct me -- there will be another meeting to build on the understanding of each other, the better understanding that we achieved and some ideas on potential developments of mechanisms or reporting and so on that were brainstormed in that meeting.

And, if I'm right, the idea was to have another meeting in next three weeks. Ideally here. But that may be difficult. If not, there will be a phone call in the next three weeks. We didn't go into detail, as it was very late, about how many people should be able to participate and so on and so forth because people had the feeling that if this is becoming too big -- might get too formal. And so keeping it small at this stage might actually be productive for finding innovative solutions. And this is just for your information for the sake of transparency. This has no effect. As I said, no decisions were taken on it. So this was just a gathering to an informal way find a way to move forward.

Any questions on -- or comments on the safeguard part of our interaction with the board?

I don't see any -- any questions or comments on the existing ones you have -- we have now up on the screen? This is 1, 2, 3, 4, 5, 6, 7. And three more that are being added while we speak.

So we have Kuwait, please.

KUWAIT: Thank you, Chairman. There is a cross-community working group on Internet governance. And we have attended that meeting yesterday. And, obviously, the role of the group as we understood that it is outreaching also other Internet governance related organization or activities. And we have noticed that the GAC is somehow absent from that working group. So can we bring this subject up with the board tomorrow?

CHAIR SCHNEIDER: The question is to what extent this is relevant for our discussion with the board given this is up to you. We may need to set priorities. So maybe I would like to invite other members to -- the U.K.

UNITED KINGDOM: Thanks.

Well, we've been discussing this cross-community working group on Internet governance prior to moving on to this topic. I think for -- the time with the board is precious. We -- it's our opportunity to engage on issues where we are pushing for some movement, where we have concerns. I mean, that's our priority. So I'm really against the idea that we just seek information from the board. That's not -- I think that's

ICANN | 52
Singapore

squandering the opportunity, you know? We can get information from the board, for example, if it's in relation to the ICANN's relationship with the ITU perhaps in another way, to refer to the Indonesian proposal.

I wasn't sure what question we are actually putting to the board about ICANN's relationship to the ITU. Maybe I missed it or didn't quite understand it thoroughly. But I come back to the point. Our time with the board really is to engage and interact on key issues of policy and direction where we have clear objectives in mind. It's not really just an opportunity to get a download of information. Thanks.

CHAIR SCHNEIDER: Thank you. I see people nodding, so we should try and prioritize issues.

I'm informed that we have a remote participant that would like to speak. I think it's the Giacomo Mazzone from the EBU, European Broadcasting Union. So can we get him online on our audio system?

EUROPEAN BROADCASTING UNION: Can I talk? Can you hear me now?

CHAIR SCHNEIDER: Hi. Yes, we can hear you.

EUROPEAN BROADCASTING UNION: Oh, perfect.

So thank you, and hello to everybody. Sorry for not being with you.

ICANN | 52
Singapore

I have a suggestion for the meeting with the Board, because we have experienced a very nightmaring situation with the community brand and the community-based TLDs.

I have not seen that this has been (indiscernible) as one of the points to be discussed before we go for another round of the new TLDs and I would like that this point will be stressed.

I prepared a note in which I inform you, if you are not aware, that 90% of the requests coming from community has been turned down by the CPE process. And I think that there is something that doesn't work in this field and needs to be carefully examined by the GAC with the Board.

CHAIR SCHNEIDER: Thank you, EBU. In fact, first of all, we have been receiving a number of letters that are somehow dealing with problems or, at least, issues related to community TLDs related procedures and different views on how to apply or how to appeal against these procedures. And we've already in the past expressed our concerns that this is problematic.

We may, if others here in the room and remote agree, put this actually under the item new gTLD program reviews and assessment and reference to the fact that the GAC as well as individual GAC members are contacted frequently by people related in community application discussions in the past months, and that this should be taken very seriously in the review.

Would that be something that -- And, yes, EBU, please share the paper with us. Send it through the mailing list, ideally before tomorrow

morning so that everybody can take your case or your experience into account.

I see the U.K.

UNITED KINGDOM: Yes, thank you, Chair. On that topic, I, like others, I think, here have received representations and I've been provided with updates on the state of play with some applications which, from the U.K. perspective, we characterized as demonstrating demonstrable community support but which were not succeeding in ICANN's processes. So there are fundamental problems here of process and evaluation.

Now, what -- I don't think the committee is ready, really, to go in hard on this again. We've raised this, actually, on previous occasions. I know that individual applications have been problematic, so it won't come as a surprise. But what we agreed within our European discussion was that we might do some analysis of what has happened with some of these applications, and then we come back to this at a later date.

So rather than raise this at this time with the Board, we wait until we're in a position to draw on some analysis and comparison of how individual applications which have got into trouble, which are demonstrably community-based applications, whether there are common problems, common deficiencies of process and so on that we then would bring to the Board's attention or bring to the community's attention, possibly with the Board at a later date.

So that was how we have concluded our current discussions within the community, within the European group, if you like.

ICANN | 52
Singapore

Thank you.

CHAIR SCHNEIDER: Thank you, U.K., for sharing this with us.

The Netherlands.

NETHERLANDS: Yes, I share U.K.'s view. We don't have any, let's say, substantive material to, let's say, support our call for, let's say, assessing the -- where the community applications went wrong or where, let's say, there are flaws.

And for the second point, you asked for priorities. I think you're very right in this short time we have with the Board, and I would say, which is maybe an open door, but I think we should start with IANA stewardship transition followed by IANA accountability, and then subsequent other points.

Thank you.

CHAIR SCHNEIDER: Thank you very much. But it may be useful to, just when discussing the program reviews and assessment, I guess we'll also ask the Board, since they presented to us a draft work plan for a second round, by the way, at the last meeting, and I personally have not seen any new version of this, we could ask them like where they are with how to develop and structure the assessment in terms of timelines but also in terms of scope. If you want, if you wish you can inform them that you're working

ICANN | 52
Singapore

also on assessing the community-based -- or the history and the experience of the community-based TLDs and just inform the Board that you will feed that -- you're willing to feed that into the assessment if they wish to take this into account.

With regard to priorities, as we have a little time left, I think the IANA stewardship and accountability is definitely something that will have a high priority. We don't need to spend time on this.

How should we proceed? Is it possible to add the proposals that we have heard now on that list and then decide in what order we keep them or which ones we would rather not keep for the Board? That may help us to structure the meeting.

Japan, and I actually forgot Australia. Okay.

Japan, thank you.

JAPAN: Thank you, Chair.

So regarding the NETmundial initiative related to the CWG activities on Internet governance, we also would like to ask the board member what ICANN play a role and what contribute in the initiative in a concrete way.

Thank you.

CHAIR SCHNEIDER: Thank you. This is -- This is noted.

ICANN | 52
Singapore

So what else are priority items of the list of issues that we have? And what else do you think -- or what do you think is not a priority item?

Maybe a question to the secretariat. Is it possible to add things to what we're seeing and to change the order or is that not possible because it's a fixed?

So shall we give you a few minutes to add the items? And that would leave us some time to think about priorities or order of the ones that we already see now.

TOM DALE: I'll just read out the additional items so Julia can add them to the list.

First one will be delays in delegation of .AFRICA. Progress on ATRT2 and plans for next ATRT. And ATRT3, perhaps. Sorry. Change it to that.

And under -- under new gTLD program reviews and assessments up at the top there, include community priority evaluation issues.

Okay. Thank you.

CHAIR SCHNEIDER: I don't know; maybe clarification. Should it read "delays in the delegation of .AFRICA"? What you meant? Instead of delays and delegation. Yes. African Union Commission.

AFRICAN UNION COMMISSION: It's actually delays in the delegation and the IRP process, and we'd like to link that to the broader accountability process.

ICANN|52
Singapore

Thank you.

CHAIR SCHNEIDER: So could you repeat that so that we....

AFRICAN UNION COMMISSION: It's the independent review process delay. The independent review process and the delay in delegation of .AFRICA.

CHAIR SCHNEIDER: So it's independent review process and the delay in the delegation.

AFRICAN UNION COMMISSION: They're both linked.

CHAIR SCHNEIDER: Thank you for clarifying this.

AFRICAN UNION COMMISSION: Thank you.

CHAIR SCHNEIDER: Okay. And then I would -- Maybe a possible ATRT3, but, actually, they are bound to have an ATRT3, so that's a detail.

All right. Now we have everything on one sheet. We've heard that accountability and stewardship transition is priority.

ICANN | 52
Singapore

Other priority? That doesn't mean that others are less relevant, but maybe at this time where we are now, where should we spend most time on -- Yes, Kuwait.

KUWAIT: The Internet security challenges, I would request that to be the third item on the agenda. And I will share with the Africa Union that .AFRICA is also a priority.

CHAIR SCHNEIDER: Yes. I think the U.K., do you want to take the floor?

UNITED KINGDOM: Thanks, please.

New gTLD safeguards I think is important. We don't have a meeting with the NGPC during the Singapore session. We really need to keep the pressure on.

So I would -- I would start off with ICANN accountability, and then move to safeguards, and then security challenges. Maybe that's the sequence.

Now, use of two-character labels, I don't know really what we're expecting from the Board. I mean, we're going to cover it in the communique. Is that sufficient to -- I'm just thinking we've got a long list now, and that risks diminishing the time we have to really bottom out some of these critical issues. So maybe stuff that we're covering in

the communique in some detail, we do not automatically put into the agenda for the face-to-face meeting with the Board.

Thanks.

CHAIR SCHNEIDER: Thank you, U.K. Actually, it's good that you bring the two-character issues up.

I've been contacted by Cherine and on behalf of the NGPC, and they're a little bit unclear and have asked us for clarification on how to react to something like the letter that I sent. So to what extent this is advice or not advice. And with these kind of information and communications. And they are seeking for a clarification as NGPC. We might actually use a little bit of time now, if we have it, so that we get a sense -- a common sense, ideally, on what we tell the Board tomorrow. But they're actually waiting for clarification on how to deal with something. And I think we should take this seriously in order to avoid further misinterpretations. So we might actually want to spend a few minutes on this, because I think that not just the Board but others as well will be waiting for some explanations or reasoning or -- about also of expectations for action or not expectation or action.

So we may need -- may use a little bit of our time in the next 25 minutes for this.

And, since we have had a discussion on that in the GAC, we may also just convey some of the views on substance. But it's not just a substantive issue. It's an issue about procedures in terms of being clear

ICANN | 52
Singapore

to the board what we expect of them and what we don't expect of them.

Any comments to this, if you wish? Or other comments on what is priority and what is less a priority?

At least something that we can communicate is that we have taken note of the questions and that we'll -- if it's too short to get an answer, that we'll spend time on giving an answer on this. I see the U.K. is wanting to say something. Thank you.

UNITED KINGDOM: Yes. Thanks. On this turbulence -- is that the right word? -- about two characters that seems to be happening. I mean, we've had that discussion in open session. And the community will be aware that flows through to the communique in terms of advice.

Were you saying that we have to respond now? And perhaps the board meeting is an opportunity as there will be NGPC, obviously, as members of the board there because of there's some urgent need for response? Was that the problem you're trying to highlight?

Because I -- I really don't see this as -- as I said before, I think we have a -- we've had a dialogue. And we have the communique drafting to communicate to the community, including the board, the NGPC, how we are following up that exchange of letters. Thank you.

CHAIR SCHNEIDER: Thank you, U.K. I think this turbulence has several layers, if I may say so. The first one is that, apparently, our advice in Los Angeles has not been

either clearly formulated by us or not been enough clearly -- or thoroughly read by others. But that there has been interpreted in different ways or by the -- some registries.

And the implementation of that advice has been done by ICANN without consultation. And this may actually link us to the issue of policy and implementation that communication is not only needed and exchanged in formulating policies but also in the implementation part that we need to be vigilant and active in communicating with ICANN and whoever is implementing a policy that we make sure that is implemented in the right understanding.

What has happened is that ICANN has implemented a mechanism that several members in the GAC, as we've heard, have felt that it is not really workable for them and, hence, not really implementing or not in line with the advice that we gave. It's not a black and white yes or no thing. But it's like hmm. And then, hence, the urge to communicate this to ICANN that this is not -- and with some proposals on how to amend the implementation of that advice in a way that GAC members think would be working better for them.

And, at least to what I understand, the problem is that then ICANN staff reacted to this letter, again, without really consulting. And but also the board was not sure on what we exactly would expect to them, whether this is an advice in a classical form or whether it's just a communication, whether it needs a decision by the board or not.

It's -- in addition to the substantive concerns, it's a procedural or it has become a procedural issue on who's telling whom what to do and who needs to be consulted and so on and so forth, which is something that

we may want to -- there was no -- I don't think there is bad intentions from any of the side. We were just trying to communicate.

But, apparently, that was not -- has not been clear enough for everybody. So I think these are some of the layers of the issue of that particular case.

Does anybody want to add something to this? And we may raise it with the board this time. We may also find another channel to discuss it with the NGPC only because -- so we don't have to. It depends on the priorities. But it would be a possibility.

European Commission.

EUROPEAN COMMISSION: Thank you very much for giving me the word.

I think it is important that we raise this issue with the board, not only because the board and the NGPC is relatively the same people, but also very much because this is an issue which has been going on for quite a while now. And it is a crucial matter in relation to how the whole gTLD program has been implemented.

I think it is -- it is for us at least a high priority to raise it tomorrow and to hear also the thoughts we were discussing the late night meeting yesterday. And you gave a little bit of the results of it.

Now, maybe we are going towards something which is a better understanding between the board or slash NGPC and ourselves. And I think that would be very useful and interesting to listen to from the

board. So I would still very much appreciate if we could put it relatively high up on the agenda. Thank you.

CHAIR SCHNEIDER: Thank you, European Commission.

I'm looking for other views or same views. Australia.

AUSTRALIA: Thank you, Chair.

And I guess I'll probably catch up as we go. But I think I have no problem either way with the safeguards being higher or lower on the agenda, which I think is what we're discussing. But, having not been in the meeting last night, I'm not entirely clear whether -- where the GAC stands, what is it we'll be asking the board.

Last night from the GAC members that were there -- so I understand it was U.S., Commission and yourself -- was there a convergence? Like, is -- I'm just wondering, like, with this session, are we going to be hearing individual GAC members talking to the board? Or have we actually got a GAC position yet, which I'm really not clear on

CHAIR SCHNEIDER: Both of you want to speak. So, please, go ahead. Ladies first.

UNITED STATES: Thank you, gentlemen. It's lovely to work with such gentlemen. My sense was, as Thomas provided his overview, there was no definitive

conclusion. And it was not structured that way. It was more structured to bring the different sort of communities that had been not deliberately talking past one another but, simply, you know, as we all work in our silos and not having a chance to really sort of look across the table and say this is why we believe XYZ and to get an answer.

I share Thomas's, our chair's sort of assessment of -- I think it was an extremely positive initiative. It was good to have that kind of back and forth. And it was very informal and very collegial.

We were able -- all four of us. It was Camino, Lars Erik, Thomas, and myself. We were able to reinforce that, you know, all of our advice since Beijing has been very firm and very much consensus advice.

I think we did indicate that, as of yesterday, we had not yet arrived at a GAC consensus position for purposes of Singapore 52, for purposes of the communique.

I have circulated, Mr. Chair, so you know I am on my -- on the job. I have circulated draft text to my EU colleagues for their initial review. And it very much sort of is consistent with what we have said in the past with some slight differences to sort of -- my attempt to acknowledge where we are. It is February 2015.

And I think there was a sense of this last night at some point. We need to decide how to go ahead. Do we restate the same thing? Do we -- you know, send a signal that, while we regret XYZ, nonetheless, we send a signal that we are interested in hearing what the board will come back to us with. Because I think that remains outstanding. There is -- the board, I think, sent the signal last night that they are looking for this

communique. That was my impression. I hope we're not on completely different pages.

CHAIR SCHNEIDER: Thank you, no, we're not.   European Commission, you want to complement?

EUROPEAN COMMISSION: Anyway, no, exactly. No, I just -- I would -- I think we would just ask the question now how do the -- how do they -- you know, how do the board actually see the situation right now? And see if they -- if they can see -- you know, they can enlighten all of us and not only three members of how they see the situation. What are the possibilities to go forward? What -- how can we meet the consensus advice that we have on the table right now? Then, of course, I'm going to read iteratively the proposal from Suzanne for this meeting. But it would be interesting to hear from them. And I think it is something that I think everybody would like to listening to. Because not only think the European Commission and the United States have had an issue with how the -- how ICANN has implemented our GAC advice. I mean, this has been something going on for quite a while. And we have repeatedly coming up with issues and problems that we have.

In this respect here, it's much the verification and validation of credentials in a very limited group, which is -- shouldn't take a long time. And I would expect that we should be able to hear from the -- you know, not take much time of the precious time, as you say, we have with the board.   But I still think it is worth having it and also then

CHAIR SCHNEIDER: Thank you very much. Just another additional information that may be important. The meeting was held under Chatham House rules last night. So nobody will tell exactly who said what. But it's possible to -- because we were really trying to get people to be frank and open and come up with ideas without having to be afraid that this will somehow create precedences and so on.

Just one issue that was raised where we may have different views or unclarities. In case we would continue to not consider that advice has not been implemented, we may also try and clarify is it an up to us to say that we consider the advice not implemented? Or is it up to the board to tell us that they implement or not -- did implement it or not? So in case we would go and proceeding on formal exchanges, that would need to be answered. In case we would proceed on informal exchanges, that may not be relevant and other things may be more important. But just to inform you about the fact that there seems to be some unclarity about, on a formal level, who would actually expect whom to define what is accepted or not.

The U.K. and then Australia.

UNITED KINGDOM: Thank you, Chair. And thank you -- thank you and U.S. and European Commission for recounting what happened with that meeting held under Chatham House Rules. I certainly appreciate the time you all put

in for that exchange at a late hour and so on. But I'm getting uneasy about this as a modality for this committee. I mean, we didn't have a meeting with the NGPC as the full GAC. And maybe that's -- what happened yesterday evening exemplifies why we should always ensure that we do have a meeting with the NGPC when we have major gTLD-related problems on our table. So I just flag that.

As I say, I appreciate what all you guys did and so on, but I think as a modality for interaction, that's not ideal. And maybe colleagues here might feel they were sort of left out of that as a -- as a way of working, as a modality.

And we're talking here now, I think, about the consensus area of safeguards relating to the highly regulated sectors, and so on. But when we raise two characters, we must be mindful that positions do vary across the GAC. The U.K. has basically no problem with the use of two-character country codes at the second level, and I think that's shared by the U.S. and others as well.

So if this issue is going to be raised tomorrow with the Board, it has to be done carefully to ensure that that is -- that nature of the issue, that status of the issue is not the same as that relating to safeguards for regulated sectors.

Thank you.

CHAIR SCHNEIDER: Thank you. If I may quickly answer that. I think obviously -- and this is clear with regard to the two-character codes, whether or not to let this go and to what extent without -- there is -- every country is free to

decide or there are different views, but we agree that it is up to every country to decide. At least that is what I had understood from the discussion.

With regard to this type of meeting, actually the role of the NGPC was the role of a convener to get the concerned parties together that have been exchanging letters to the Board, talking via the Board, and not yet -- and I guess this was what my colleague from the U.S. meant. We haven't been talking together directly, the registries and the GAC and ALAC. And it's actually -- that was actually built on a proposal that came from the ALAC that was made in public that we should get together. And the NGPC then basically took responsibility to act as a convener to bring us, the stakeholders, together. It was not about the NGPC. It was about trying to get those who are concerned, a few concerned, to talk to each other. That was something that was completely different in terms of modalities than a normal meeting.

So -- But do you think we should still keep these two items? That's what I tend to understand. We should keep these two items on the list, both the second level country code and the names issue, and also the safeguard issue. Right. But knowing that they're different and have different history, and so on.

France.

FRANCE: Thank you, Mr. Chair. I will speak in French.

Of course we should maintain these two issues on the list at a very high position. Particularly for the first issue, I would set aside a discussion

that may have been held yesterday or the conversation of the chart that you might have held, but the generalized consensus position regarding the text we are drafting is we are going to speak about the options we have so the safeguards will finally be implemented, including a specific question to be answered to the legitimate concerns of many of our members, and to know if the corrective measures that may be implemented will be implemented on an equal footing so that ICANN may resort to the ride measures in the delegation processes. So these are the issues on the table.

We have the option, additionally, of the group in the Cross-Community Working Group proposed by ALAC, there is another option, there is the option proposed by Mark because that option included that we should assess the situation about the implementation of these applications, and to find what are the corrective measures that ICANN may implement, if after our assessment we decided that these safeguards had not been implemented. I thought that was the consensus that we have reached, and that was the issue that had been posted. Is that correct?

Thank you very much.

CHAIR SCHNEIDER: Thanks, friends. I think we don't have time to go into details, but of course the conversation we held on Saturday afternoon is just a baseline for this other conversation with the Board, if that was your question.

With respect to the list that we have in front of us, the list for the agenda for tomorrow morning, if there are no more comments regarding the list, I propose that we may clarify these priorities and understand this list is a preliminary agenda. That will be it.

KUWAIT: Regarding my initial request about the CWG on Internet governance, I -- just to clarify. My point wasn't to ask for information or an update. It's to request the GAC to be there in that CWG group. The IG CWG. So we want just to request that the GAC will be represented in that cross-community group, but not seeking information or making it a topic of discussion. So that's just what we want.

CHAIR SCHNEIDER: Thank you, Kuwait.

I think we need to remember that Cross-Constituency Working Group is not something that the Board, if I get it right, correct me if I'm wrong, that the Board is setting up. It's actually something that if members among the communities realize that not only they but also others care, then they start setting this up, apart from the ones on accountability and IANA which is something different.

But if you want, since we have the -- a short information on NETmundial and initiative, we may in turn inform the Board in one sentence that we are looking at the charter once it's finalized and consider participating in this. And that actually individual members already are participating in, just as an information that will be one minute or so. I think we can do this. That is no problem. Okay. If that is accepted.

ICANN | 52
Singapore

Any more comments on the agenda? And if not then that would be it for tonight, at least what is on the formal part of this. There may be some other things going on tonight.

Like I knew there was something. There's a social event. It's the Board-GAC reception. Get together at 7:00 in room Ben Coolen. It's one of these rooms outside. Of course, the question is which one. How do you write it?

TOM DALE: It's Ben Coolen, B-E-N C-O-O-L-E-N. I think it's a reception area just off one of the main walkways. It's quite visible. You may have seen people having breakfast and receptions and enjoying themselves there. It's that one, Ben Coolen, with the Board at 7:00 p.m. this evening.

CHAIR SCHNEIDER: Is it the half open space? So you will see it. You don't even need to know the name. It's the only thing that you see outside.

Okay. So hope to see you at 7:00 and then we'll meet again at 8:30 quite sharp next morning.

Have a good evening.

[END OF TRANSCRIPTION]