LOS ANGELES – GAC Recommendation Implementation Working Group (BGRI) Accountability and Transparency
Sunday, October 12, 2014 – 17:00 to 18:00 PDT
ICANN – Los Angeles, USA

Let's call for your attention. We're going to start shortly.
I haven't got Tom's bell.
Bang, bang. That's the second bell.

TOM DALE:

Hello, everyone. If you could please take your seats, we'll restart in about one minute.

PETER NETTLEFOLD:

Welcome back, everyone. I'll be just -- I'll be chairing this session as Heather has had to go off for a side meeting. This session for which we have one hour is about accountability and transparency. The Board GAC Recommendation Implementation Working Group. And today we'll be looking at progress with ATRT2 GAC-related recommendations and also some NomCom issues.

Here today we have Manal, who is the GAC lead for this, and Bill Graham from the Board side who will be talking through a slide presentation which was circulated to the GAC and part of the GAC's notes for today's meetings. So, without further ado, I'll pass across to Manal and to Bill.

MANAL ISMAIL:

Thank you, Peter. And thank you, everyone, for staying for this bit late session. So, like Peter mentioned, we're going to go through the

implementation of ATRT2 recommendations; namely, recommendations 6.4, .5, .7, and 10.2. Recommendations 6.1-3 and 6.6 are being handled through the GAC working methods, working group because they've been identified as GAC internal matters.

And recommendations 6.8 and 9 are being handled through the government engagement working group led by Lebanon.

So, having said that, can we go to the next slide, please, and allow me to apologize for a bit crowded slides. But we're quoting from the different documents and stating the recommendations as-is, so that's why it looks too dense.

So recommendation 6.4 states that the Board, working through the BGRI working group, should develop and document a formal process for notifying and requesting GAC advice. And it also references ATRT1 recommendation 10.

As agreed in London, it has been agreed that we start from where the current process of the board requesting GAC advice -- how it currently takes place. So, if we go to the next slide, please, it provides a brief on the steps where the board requests GAC advice. And this is a two-page document that's been developed by GAC staff. Bill has been working this with GAC staff. So this is the proposed time frame and the required action.

So it's -- the board provides written notice to the GAC. And then the GAC is given reasonable time to provide review. The GAC and the board agree to meet at the next ICANN meeting. They exchange views, agree

on a timeline at the subsequent ICANN meeting. And then the GAC prepares positions on the public policy issue.

And then the GAC and the board consultation meeting, the GAC and the board meet for consultation to provide advice. And then the board determines action and provides the GAC a notice of the intended action. And, finally, the GAC provides comments, if any, on this action.

If I recall correctly, this stands for, like, two ICANN meetings. And I hope you have had the time to go through the two-page document. But we've highlighted a couple of issues on this current process. And we hope to hear back further from you.

So, if we can go to the next slide, please.

So the document says that, as a part of the ICANN community, the GAC is regularly informed about ICANN's policy development activities and reviews them from a public policy perspective. In past, this review has led to the provision of GAC advice in cases where the GAC finds it justified. This may explain why board requests for GAC advice is a rare occurrence indeed with only one such request issued during the last five years.

So, as we see, there is some notion here that the GAC is already being involved and provides advice and input to the board even before the board requests -- formally requests such advice. And that's why it's been, like, one formal request for advice that's been received by the GAC for the past five years. So I thought this was something worth noting.

If we go to the next slide also, the document states that it should be noted that the board decisions to seek public comments or procedure predicted board invitations for GAC comments such as the GNSO PDP, those are not within the scope of the consultation process.

So those are two remarks that we thought worth highlighting in addition to the current steps followed for the GAC advice to the board.

And I think we can pause here and take any reactions to -- Bill, please?

BILL GRAHAM: Thank you very much, Manal, for introducing this.

The ATRT did assign the board to come up with a proposal for your consideration here.

And so I just wanted to say that there was -- there was some discussion on the board list. What we were striving to do with the process that was outlined on slide 3 was to make the maximum use of face-to-face ICANN meetings. Because we felt that in the case where we were seeking very specific GAC advice on a topic that was not part of the ordinary operations of ICANN's policy development process, we probably would benefit from opportunities to both formally meet and to chat with GAC members to assist in understanding the request and also get a preliminary sense of perspectives. You'll also have noted that there's a timeline associated with this. We felt we could -- should really be modeling this request process roughly along the timeline process that was developed in response to the ATRT1 process for dealing with GAC advice.

So you'll see a lot of similarity in the lengths of time that are being allocated. And also, as I previously said, we've made very heavy use of ICANN face-to-face meetings.

So, as Manal has said, we have not in past had occasion to seek GAC advice proactively as this process would allow because the policy development process and the GAC advice process have been working quite well. So this hasn't really arisen a lot.

However, you may have noticed that recently the board took the unprecedented step of asking the GNSO to launch a policy development process. And so we can imagine that there may be occasion in the future for the board to launch an extraordinary request for GAC advice. And that's really the context for what we've done here. And I just wanted to make those opening remarks before we proceed to discussion. Thank you.

MANAL ISMAIL: Thank you, Bill. So Iran, go ahead.

IRAN: Thank you, Manal, and thank you distinguished colleagues. I -- although you have mentioned implicitly, I would like to know what are those occasions, circumstances under which the board specifically ask GAC any advice? You mentioned that sometimes this request of advice of the GAC is -- two other steps, but is there occasions or circumstances that the board directly asks advice of the GAC? Or advice of the GAC may be asked when there is a process for other constituencies and then through that GAC will be involved? So I would like to distinguish

between the two and say how many cases or and which are the cases under which, the board asks directly the advice of the GAC? Thank you.

BILL GRAHAM: Thank you for that question. To be frank with you, at the moment I have not been able to find a specific example of that having been done. We have been considering the normal process -- the GAC does an excellent job, I think now, and, in fact, an improving job of tracking what the board is doing, what the GNSO is doing, what the ccNSO are doing. And there have been many cases where the GNSO or the ccNSO have asked for GAC participation in developing a policy. I am not able to find, so far, any case where the board has done that. And the reason for that is that the board in ICANN is not in itself a policy development body. We're more a policy ratification body. So policies are developed in the supporting organizations, or policy proposals, and they come to the board for ratification. It has been the case so far that the GAC has reviewed those proposals, in many cases participated in the process, in other cases, once the proposal is known, they have -- the GAC has provided advice to the board based on that proposal. But that's all part of the normal process. I am not aware of any instance where we have had to use this.

That said, the Accountability and Transparency Review Team felt that it would be important that we make it clear how such a consultation would happen in the event that a need arose. And I think that's why we have done this, rather than trying to formalize something that's happened previously.

MANAL ISMAIL: Iran.

IRAN: Yes, madam, yes, Mr. Graham, thank you very much. Then the question comes that does the supporting organization that you mentioned have taken any action in areas relating to the activities of GAC, without asking the advice of GAC or usually -- or in general rules on their activities they come to the GAC for advice? I understood from you that the reason why ICANN does not ask any advice from the GAC directly or very, very randomly may, because the supporting organizations, they do that and through that that will -- so is there cases that the supporting organizations have never, ever come to the GAC for any advice and did something, just wanted to be sure, or in all cases, without exception, they have sought the advice of the GAC?

MANAL ISMAIL: Thank you, Iran. And if I may provide a quick response to this, I don't think what was meant is that the other SOs and ACs request advice from the GAC and that's why the board do not. I think what was meant is that the GAC already provides input to the -- proactively to the board and that's why the board do not request GAC advice, because when the issue is brought to the GAC's attention and the GAC already develops its -- I think it's more or less the exchange of letters that's done between the GAC chair and the board. But I remain to be corrected, of course, from board members here. Thank you.

BILL GRAHAM: I think that's a good summary, Manal. The Policy Development Process, I can think of one example, for example, one good example in the context of the country code supporting organization which would be the development of the IDN fast track where the ccNSO certainly came to the GAC seeking advice and cooperation in developing that policy. Similar examples I'm sure can be found with the GNSO. So those events certainly have happened.

It's a bit -- it's a dynamic situation because I think it's fair to say that all of the supporting organizations, if they perceive a public policy implication to their work, come to the GAC and ask for advice. They may miss some things, and one of the things we've been working on for the past couple of years in the BGRI is developing methods for the GAC to become involved more early in the policy development process. So I understand, for example, you've had a very successful set of meetings with the GNSO that have resulted in the GNSO appointing a liaison to the GAC. That is intended to facilitate this exchange on policy. Another thing that has happened, I would say for about the last two years, is that the ICANN staff supporting the GNSO policy process are producing quarterly policy development updates and sending them to the GAC as a way of informing the GAC of policy development processes that are going on so that if the GAC believes that they may wish to provide some help or become involved in those processes, they're informed very early on of the processes, of the topics, of the stage of development, and are able to participate at that point. Thank you.

MANAL ISMAIL: Thank you, Bill. And if we don't have any further immediate reactions to this, I suggest that GAC colleagues go through the two-page document thoroughly and maybe come later if there is any suggestion for any improvement to the current process as it stands, although that it is not being used frequently but again, like Bill mentioned, it's good to have something documented that we may refer to whenever there is an official request from the board to GAC to provide advice.

So if we don't have further requests for the floor, I would ask if we can go to the next slide, please. And this is ATRT2 recommendation 6.5 which states that "The Board should propose and vote on appropriate bylaw changes to formally implement the documented process for Board-GAC bylaws consultation as developed by the BGRI working group as soon as practicable."   And it also references ATRT1 recommendation 11. So if we go to the next slide, it provides a little bit of history on this recommendation where the GAC suggested that should the board decide not to follow GAC advice, that this be supported by at least 2/3 of board members. And at that time the board members, through the BGRI working group, the board members agreed to have this amendment, bylaws amendment. This requested revision of the article XI of the ICANN bylaws. And then the GAC requested postponing the revision of this bylaws in order to ensure that bylaws amendment be addressed holistically because at that point in time we were having our new gTLD discussions and the GAC thought that further suggestions may emerge in light of these discussions. So we requested the board to pend this until the new gTLD discussions are finished.

Now, the ATRT2, following up on implementation of ATRT1 recommendations, came up with recommendation 6.5 to have this implemented, and GAC confirmed proceeding with agreed bylaws amendment at the ICANN meeting in London.

The bylaws amendment was posted for public comment, and I believe this public comment period closed at -- on the 6th of October.

If we go to the next slide, please.

I don't think we had -- or I don't think there was a chance to have the ICANN staff summary that usually follows any public comment period, but GAC secretariat, very helpfully, Tom Dale has summarized comments that were received until September 15th.

There were 41 comments received until that date, and none of them supported the proposed changes.

Comments, as summarized by GAC secretariat, they mainly tackled timing of the proposed changes, that is bad timing, and should have been considered after the IANA stewardship transition progresses, or as part of the enhancing ICANN accountability work.

The second concern is that the threshold for rejecting GAC advice is different than that of other SOs and ACs.

The third one was that this change could remove any incentive for GAC involvement in policy development. Lack of transparency in selection of GAC members, and changes would create even more problems should the GAC move to voting rather than consensus.

And frankly speaking, I see too many misunderstandings in the submitted comments. First of all, the timing was not intended to be with the IANA's transition process. It relates back to ATRT1 recommendations. So it has nothing to do. It was just by coincidence that this is happening along with the IANA stewardship transition.

And again, lack of transparency in selection of GAC members. Again, I think there is, again here, a misunderstanding that GAC members are being nominated by their governments. There is no selection for GAC members. So I'm not really sure what was meant here.

And removing incentives for the GAC to participate early. I think we've already been working on GAC early participation. And I think even the Board did not ask officially for, or formally, for GAC advice because I think the GAC already provides GAC input.

So we need to have probably more time to look into the full set of replies, because as I mentioned, this was a summary provided by GAC secretariat for comments received until 15th of September. And the public comment period closed on the 6th of October. So I'm not really sure of the rest of the comments.

But, Iran, you want to? Go ahead, please.

IRAN: Yes, Madam Chairman.

Madam Chairman, apart from being a technical man, I have a little bit of
--

MANAL ISMAIL: I'm sorry, can you speak closer to the mic?

IRAN: Yes. Madam Chairman, apart from being in engineering -- having engineering background I have also a little legal background.

I don't think the criteria of some of those 44 or 45, even if their objection are valid, which is not valid, justify not to proceed with the request.

140 or 144 member of the GAC, when they have asked 42, 49 people, they say no, that does not a breaking arrangement that not go ahead.

That is the legal part.

Then coming to the substantial part, this request for changing the threshold of decision has nothing to do with the NTIA transitions. Totally.

We refer to the practices which use -- with the parliamentary practices that in many cases, for important elements, a two-thirds majority is used. And sometimes, in some parliament, four-fifths of majority is used. And you remember, Madam, that we, at the level of ICG, how much difficulty we had.

These people, they wanted to retain the simple majority that we were not in favor in ICG.

It says that everything agreed with simple majority, it is approved. It is, by analogy, ICG have 30 members, and simple majority is 16 members.

That means the view of the 14 members are totally ignored. So this simple majority is not accepted.

So that criteria, why we come to the two-thirds, was logic. So I don't think that that element from two aspect has any value. The first aspect, relation with IANA transition and accountability, and second, with the criteria used throughout the world in parliamentarian action. So that is totally out.

The other you have explained.

So I don't think that we should be disappointed, and we should reply to those and give our reasons and stick to the -- or reaffirm to the request. It should go. And Madam Chairman, you know me and many people know me. I am a very straightforward people. They don't like us. That's all.

Whatever we make a decision to improve the participation of GAC, they don't like us. That is quite, quite easy. We know that. We are stepchildren. That is why we are put in a tent. You can to the other and see how much comfortable room they are. I'm not jealous, but other have comfortable room. This is just, I don't need. This is the military camp here.

[Laughter]

Just looking like that here. Just look at these things (indiscernible).

I am not a formalist. I am coming from a middle class society, but this is not good. This is not equitable and let us see democratic and so on, so forth. They don't like us. And I don't know, who is this 44?

It's quite easy, quite easy to have 44 people organized, orchestrated, pushed to have something. It's quite easy. But 44 are not representative of entire two and a half billion peoples. They are not representative. So we could clearly have, I mean you and others, reply to that, and that is essential point. If we lose this point, we lose everything. Like the other thing. So Chairman, please kindly provide an answer and we are quite happy to support that and this should be in this GAC meeting that we totally disagree for various reasons that I have given and yet you have mentioned and we have to proceed with two-thirds majority and so on.

We are not happy with one -- a half majority plus one percent, 51%. All of the discussions that we had, we know that having a conclusion in GAC is not very easy. But once we have, after all this, have something quite confirmed, then -- and going to the second step, it was rejected, and we have no. So we should have that, and two-thirds is the minimum. Otherwise, we go into the upper level, going to the four-fifths, and that's all.

Thank you.

MANAL ISMAIL: Thank you, Iran. And I think we're more or less in agreement.

I already mentioned that the comments has a lot of -- they have a lot of confusion and misunderstandings, but I was told now that we have 56 comments by the close date, and I think we're a bit early to say whether this is going to be accepted or not.

I think we still have to go through the process, have the summary and have the normal steps taken, which the time did not allow before this meeting.

But again, as you mentioned, many of the comments have some misunderstanding, which are worth clarifying.

So, Bill, you want to add something?

Netherlands, go ahead.

NETHERLANDS: Thank you, Manal. Just a couple of things to this issue. I think I agree with you there is some kind of misunderstanding. I think GAC advice in this case is meant to be unanimous, consensus advice in which, let's say, there's no one objecting in the GAC. We're talking about this type of advice. It doesn't mean -- this doesn't mean that we just can arbitrarily advise something. It must be -- I think the community should be very aware that we're talking about GAC advice in which no single governments has objected. Otherwise it would not be unanimous advice.

So I think there's one point to stress. It's not just an advice or every advice.

I think secondly, on accountability, I think I have some sympathy about for the fact that it was said, if the GAC advice would have a stronger say in its -- in the board's decision-making process, logically, I think the rationale and the way we come to advice should be given. Up until now it was not the case. So I think, if this is going to be agreed upon in the

bylaws, it needs some more, let's say, elaboration of the rationale behind the advice.

I think, thirdly, about accountability, I think, of course, we -- let's say governments are also accountable. Our -- I think our names and addresses and our organization are publicly on the Web site. We can be held accountable for what we do here. Every organization can be approached and said okay. What you said there is completely bullshit in the GAC. So I think there are means of ways in which we can be held accountable to what we are saying in this organization and advising.

And, last, I think about the 40-some comments we hear. I think we -- what, of course, is missing is the fact that GAC members, the GAC countries here, to my knowledge, all have agreed to this proposal to be brought to consultation, meaning that you could -- should count them in as proponents of this proposal. And these are, basically, all the governments in the world. At least present in the GAC. Thank you.

MANAL ISMAIL: Thank you, Netherlands. And I have a request from Mike Silber, please.

MIKE SILBER: Thank you, Chair.

I think this is a very interesting discussion. And I think I'm inclined to agree with a number of the comments made. I think that the community has misunderstood. I think many in the community do not understand how -- the way in which the GAC works. They do not understand the significant process improvements the GAC has

undertaken. They also don't understand the way the ICANN board works. Most of you will have noticed that the vast majority of ICANN board decisions are consensus decisions.

And very rarely is a decision taken with less than a two-thirds majority. It's actually unheard of. So, in essence, we're simply asking for a ratification.

The other issue is that it doesn't take into account the provisions in the bylaws relating to policy developed by the ACs and SOs. So I think there is significant confusion and misunderstanding.

However, I'm not inclined to agree that the reason for that misunderstanding is that anybody dislikes the GAC. I think some people don't understand the GAC. I think some people don't trust the GAC. And I think that a heavy-handed response is not going to improve that situation. I think it's a very useful discussion in terms of what steps need to be taken to resolve this. Getting into a debate about the number of commenters and who they represent and whether they're individual comments rather than organizational comments compared to the GAC and given that GAC members are not here as individuals but rather representing a government or an intergovernmental organization is not a helpful position to move the discussion forward, partly because this is no longer a GAC problem. This is a board problem. The GAC gave us their recommendation. We as the board accepted the recommendation and took steps to move their recommendation forward for wherever bylaws change. And I think it would be very useful to get input from the GAC and to receive that input. But, ultimately, we as a board need to move the discussion forward with the

community. It's our decision, not yours, that's being attacked. The GAC is not being attacked.

Yes, I understand that there's a concern of a trickle down and what this says about the community's trust and belief within the GAC and the GAC process. But that's our problem. Now let's work as a board with the GAC to try and find how best to address this. But, ultimately, this now sits with us. And we would like to take it forward.

MANAL ISMAIL: Iran, please.

IRAN: Yes. I agree to many parts. But I also agree that perhaps the situation was not quite clear when the issue was put on the public comments to have this reply, I think.

It has been mentioned by ICANN that GAC approved this proposal in unanimity.

So this is number one.

Number two: GAC are representing "X" Government. And then they are expressed something. They are a legitimate participation supporting by the government proposing them. And they have sufficient weight. And from the proportionality, it should not be taken that if this group of countries proposed something few other countries, they are negating that.

But I slightly disagree with my distinguished colleague that this doesn't mean that they don't like GAC. Yes, it means that. Because of the propaganda of the media, that GAC or government -- not GAC -- government is intending to take over the control of the Internet, it has given a bad impression in the public. Everybody says that. I have seen that. Sometimes attack of the GAC, in general. Sometimes the few governments -- government A, B, C, D -- that they want to do override and take the control. So gives a bad impression of the GAC people.

So I think it depends how the issue is put into the public interest and with what language, what introductory, and so on and so forth.

And, finally, even if the receiving 46 that are in favor -- some of them are not valid. But even some of them are valid. Still, the board should have advised decision in an appropriate comparison between what has been sent on behalf of whom and what has been replied and make its own decision. I don't think that the board should be biased by some of the decisions. Most of them might have not any logical or any logic or any rationale. So I think that we should clear that in any communication to the board. Thank you.

MANAL ISMAIL: Thank you, Iran. And, just a quick response to what you -- if I understand correctly -- and I stand to be corrected -- that any bylaws amendments should go through public comments. So it doesn't have to do with who is requesting the bylaws amendment. So I think, by default, any bylaw amendment has to go through public comment period. Additionally, I have to admit that we were confirmed by GAC members of -- I'm sorry -- board members of the BGRI working group by

that time that this is more or less the practice. And, if GAC members want to put it in writing, they can do so through the bylaw amendment. So it's more or less the practice that they do -- they never reject a GAC advice for just one member objecting to it.

So, Bill, would you like to add something?

BILL GRAHAM: Thank you, Manal. And thank you for your comments.

You should be aware that the board has not yet discussed this, this issue since it was put out for public comment. We have not seen a summary of the comments. And there has been -- since the first 41 comments, there was the reply period. I understand there was another round of comments came in then. So we haven't yet had an opportunity to review and take stock of those.

The board will be looking at it very soon and making some decisions on how to go forward.

I can tell you that I've spoken with Steve Crocker and others on the board. And I can assure you, as Mike has said, the board does not take GAC advice lightly. We have -- we simply do not. We are well aware that GAC advice already has a special status in the bylaws, unlike other advice from other advisory committees. There's a whole process, if we are thinking about rejecting GAC advice, that was worked through this committee. If we want to reject it, then there is another additional process. So it's not something that's taken lightly.

It will not begin to be taken lightly.

I am absolutely confident of that. There was certainly some significant misunderstanding and misinformation spread in a lobbying campaign in advance of the comment period. We're well aware of that. That will be taken into account as we review the comments.

So I'm in the unfortunate position of not being able to give you an indication of what the board has considered about this because we simply haven't had an opportunity to consider it. I can assure you we will be considering it. The comments you have made are very well focused and very relevant to our considerations. Those will be conveyed very clearly to the board when we do talk about it.

So we are really at a very, very early stage here. But do remember this bylaw amendment was put forward as a board proposition, it follows a recommendation from this committee that we move in this direction, so there has been good will on the part of the board in following that through so far. I don't believe that that good will has evaporated. This may take some time. We may have to work through some processes, but I wouldn't become alarmed by the current situation or by these comments. This is simply what has happened. It is -- to date it is not indicative of what the outcome is. So I just -- I'd just urge a little caution on all sides before overreacting. As you say, 41 negative comments or 41 negative comments, in this room there are more than 41 people who probably hold quite different views. We are well aware of that.

So as you know, there is considerable work going on on the -- the whole question of ICANN accountability. This is an element of that. I just urge caution, not overreacting, and we will be seeking to work with you

collaboratively as this situation develops, as this bylaw moves forward through the process. Thank you.

MANAL ISMAIL: Thank you, Bill. So can you please keep it short because we're running out of time.

IRAN: Yes, yes, I keep it short, madam. In any legal institution, the number of the oppositions should have some criteria in order to be taken as oppositions. If the situation is like this, I would be totally disappointed. No matter whatever we put according to current stature of bylaw, some 41 or 42 people that says no and that goes to hell, the proposal goes to hell. That's all. It is not correct. It should have a criteria in the bylaw mentioning that. The oppositions beyond certain case would be taken as opposition. Opposition below certain case and so on and so forth. And you cannot count GAC participant as one and those proposal as one because if those proposal coming, they are coming by individual. I have been in that in NETmundial and I saw that somebody asking the floor, saying Mr. Chairman, I would like to speak on behalf of myself. I never speak at this meeting on behalf of myself. I speak on behalf of the government, and that has 76 million people. Maybe in (indiscernible) talk 250, and other talk so on and so on. China one billion. So it is not the one-to-one. It is something that we need to look at that one, a number of the opposition. That is something to be done. Madam board, thank you very much that the ICANN board will take it seriously, and I think that is the first examination to see to what extent our

situation is properly respected and reflected. Thank you. I don't ask the floor anymore on this topic.

MANAL ISMAIL: Thank you, Iran. Thank you very much. So if -- Spain, you want -- Spain.

SPAIN: Very short comment. As Mike Silber I think has been here who stressed that, the board is in -- in the board's roof now they have to take the decision. It is not us who have to change our minds. At least I don't see anybody here taking back a word GAC agreed on so we as GAC will remain available to discuss this with the board when they consider it fit to -- to deliver their decision on this issue and I can only say that this recommendation coming from the GAC is based on the bylaws in the sense that they mandate the board to take duly into account public policy recommendations coming from the GAC. And is -- if the board usually decides by its consensus is even more than deciding by 2/3 majority. So I don't think we are asking for a fundamental change in the way the board takes into account GAC advice. So just to sum up that we -- we remain available to discuss this issue with the board whenever it sees fit. Thank you.

MANAL ISMAIL: Thank you, Spain. And I think this is a good conclusion to this recommendation and let's move to the next slide, please.

So I think we -- we might need to be skipping slides to keep up with the time. We're quite delayed. So recommendation 6.7 has to do with the

high-level meetings. If we go to the next slide, we have identified this recommendation to have two aspects. One has to do with organizing the high-level meetings and one has to do with the stock taking of the organized meeting. So I think GAC colleagues can go through the different aspects of what host member has to do before, during, and after the meeting, so if we can go to the next slide, this is during the meeting and the next one. Yes. So after each meeting the host member would -- will arrange for publishing the minutes, transcripts, and chairman's report, stock taking by GAC to discuss the high-level meeting in terms of attendance, discussion points, and outcomes. And finally, GAC support team may be able to track and report back any increase in GAC membership resulting directly from the high-level meeting.

So if we go to the next slide and this is where it took us some discussion. We were discussing how to have a stock taking after each meeting. We suggested at the beginning having like a template that should be filled, but then we felt it might be interpreted as criticism to the host country arrangements after generously hosting the high-level meeting. So we thought it might be enough to have some stock taking in terms of attendance and other aspects as mentioned in the previous slide.

On the substance side, again, it was agreed that maybe it's enough to have the chairman's report as an output, as has been the case in the past two meetings. So I think that it's again a two-page document that has been prepared by Michelle and it's quite straightforward, and I think we can keep any comments for our online communication for the sake of time.

So if we can go to the following slide, please, and this has to do with the GAC early engagement with the GNSO PDP.

Again, this has been thoroughly discussed in our previous session. So if we go to the next slide, it just highlights what has been already discussed in the last session where we have now a GNSO liaison to the GAC, the results of the GAC survey, and the challenge to prioritize and streamline the information provided by the GNSO.

So I think with this, we can now go to the second part of our meeting which has to do with the NomCom report.

Can we go to the next slide, please? Yes.

So very quickly, the NomCom issue started as early as the joint GAC-Board working group report.

The ICANN bylaws provide for a nonvoting liaison from the GAC to the NomCom. GAC operating principles do not specifically address this issue of a liaison function, but it mentions that the secretariat will undertake, among other things, liaison activities as necessary.

If we go to the next slide, and it's, again, extracted from the JWG report.

Until 2007, GAC chair nominated four individual GAC members to serve as the liaison to the NomCom. The confidentiality requirements of NomCom deliberations severely constrain the ability of the GAC liaison to provide the GAC with reports on the nature of his or her contribution.

So discussions were held at that time, facilitated by the NomCom chair and the GAC liaison at the time.

If we go to the next slide, please. It was hence determined that this liaison function was problematic for the GAC in view of the constraints imposed by NomCom confidentiality requirements. This issue was identified to touch directly on the issue of sovereignty, which cannot be transferred from one government to another.

So if we go to the following slide, please.

Those were the options as listed and identified by the JWG report, and they basically are either bylaws amendment that clarify that this function is not a GAC function but a function that could be filled by inviting the GAC to identify possible candidates who are not currently serving as GAC representative, or bylaws amendment that determine that including a GAC liaison is problematic, and accordingly, amend the bylaws to remove any reference to GAC liaison to the NomCom.

On the other hand, if the -- the report suggests that if the bylaws amendment were not feasible, then a public statement should clarify basically the same thing.

So if we go to the following slide, please. And this is the BWG report. It proposes composition of five members after pointed from ALAC, ccNSO, the Address Supporting Organization, the one from each geographic region, and four members from the GNSO, each -- from each stakeholder group, and up to three GAC members appointed from the GAC, and one member from each of the IAB, the SSAC, and the RSSAC, and one nonvoting chair and associate chair. So it basically suggests up to three members appointed from the GAC.

So if we go to the next slide, please.

The BWG report has many recommendations. We've tried to extract here recommendations that has to do with the GAC in specific. So recommendation 3 has to do with GAC representation capable of increase at GAC discretion.   It states that the BWG NomCom recommends that due to the growing membership of the GAC and the diversity of view among governments, it is appropriate for the GAC to appoint up to three members to NomCom instead of one nonvoting member that is currently afforded to the GAC.   The number of appointees is at the discretion of the GAC.

If we go to the next slide, please. And this is recommendation 5. It has to do with organization of NomCom by delegation. And it states that the BWG NomCom recommends that members of the NomCom be organized into delegations: The ASO, ccNSO, GNSO, ALAC, technical, and GAC. Delegations would have five members -- sorry. The ASO, ccNSO, GNSO, ALAC have five members each selected as described in the recommendations 1 and 2. The technical delegation have 3. And finally, the GAC delegation would, as described in recommendation 3, have up to three members.

Manner in which the delegations would vote during the selection process is explained in recommendation 8.

So if we go to the next slide, this is recommendation 7 on removal of nonvoting members roles. And then recommendation 8 describes how the voting takes place.

So the BWG NomCom recommends that all members, excluding the two leadership positions, should have the ability to vote for candidates. This

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allows for greater parity in the selection process and the voting structure of the NomCom.

Today, only the ASO, the ccNSO, GNSO, ALAC, and IETF members have the ability to vote, while the RSSAC, SSAC, and GAC members serve in nonvoting capacity. Allowing voting across all delegations better serve the purpose of the NomCom by placing all delegations on an equal footing, as compared to the current structure.

So I think we can go to the following slide, which is recommendation 8. And the recommendation proposes that voting selection be conducted by delegation, which means that the ASO, ccNSO, GNSO, and ALAC delegations will have each three votes, the technical delegation will have two, and the GAC will have one.

Each delegation may cast all of their votes for a single candidate or may split their votes for multiple candidates, where feasible.

So the suggestion is the GAC can have up to three members. They are -- They can vote, not nonvoting as previously. They vote as a delegation with one vote. So they have to agree among each other and have one vote.

So I think there is one slide remaining, and this is the rationale for voting by delegation. And I think we can pause here and take reactions before getting into this long slides.

So I have Iran and then Argentina, and then U.S.

IRAN: Thank you, Chairman. Perhaps some people may think that now is good, it is better than before, but our preference that --

MANAL ISMAIL: Can you please speak closer to the mic?

IRAN: Okay. Some people, they believe that now is good, is better than before, but at least the way that I have been trained is that if something should be corrected, it should be properly corrected.

We need to have a tabular form to see that what others -- who other they have how many persons in voting capacity and the total number of vote, and we have to make a comparison to see where GAC is positioned. We would like to know where we are.

The combination in the ICG give us a better experience, and you remember at the beginning, they want to have only two, and they totally ignored our importance and marginalized, and with our consideration we have corrected.

I am not going that we are going to bargain, but we have to have a clear picture of a situation.

Is it possible we have a table like the ICG? We have these are the communities and these are the number of the vote, and these are the voting process. You said that the three GAC could have only one. No problem. I would like to know about the others. Others have also the same, one? And what are those other, full extent?

I see -- I give you a ICC-BASIS. How many vote they have? If you compare that, you have to see whether comparable to GAC or not. It just an example. ICC-BASIS is good, my friend, and I don't have any problem with them. That just example, and there are others. I would like to know what is the position of IETF, what they have. And I would like (indiscernible). This, we could have a better understanding.

We would like simply know where we are. We would like to properly be treated as we should be treated. Thank you.

MANAL ISMAIL: So before reacting, I think I would give the floor to George Sadowsky. He's been leading this effort and would be very helpfully addressing your questions.

GEORGE SADOWSKY: Thank you, Manal. And thank you for the request.

Yes, we can provide such a table. And we will do so. I'm actually very heartened by your response, because it means that you may well be interested in participating in the Nominating Committee activities.

As you know, the GAC had a representative on the NomCom through 2005 but, after that, declined to participate on the basis of the reasons that Manal has given.

In designing the new structure of the Nominating Committee, the proposal we made -- we made sure not to leave the GAC out simply because it was not participating at the present time.

And I'd like to point out that the manner of participation is really up to you. We would like your suggestions regarding what we have proposed. And, if you don't want to be mentioned at all, that's fine. If you do want to be mentioned and participate, tell us how you'd like to do it so that we can amend the proposal, if necessary, to meet your requirements. Thank you.

MANAL ISMAIL: Thank you, George. So Argentina.

ARGENTINA: Thank you, Manal. Thank you, George. And thank you, Iran, for the comments.

Argentina believes that the GAC should have a fair representation in the NomCom. We should have also five members, one per region, and also the same delegation votes as I see the proposal to the ccNSO and the ALAC have.

We have a lot of members. And we -- Argentina believes that we do must have a say in the selection of the selectees in the NomCom. Our country will be submitting comments to this document. And there may be other countries want to join us in this effort or the GAC, but this is an internal GAC discussion. Also the GAC must have an internal discussion about the concrete participation in the NomCom. But Argentina believes that this is a very important issue and that the participation of the governments in the selection of these candidates is relevant for the multistakeholder model and for the fair representation of all the stakeholders including the governments. Thank you.

MANAL ISMAIL: George.

GEORGE SADOWSKY: Thank you. Thank you very much for those comments.

                       Let me explain where the number three came from. One of the things that we tried to do in the committee was to align the structure of representatives to the NomCom to the structure of the organization providing the representatives. So that's why you'll find that the ASO, for example, has five candidates representing the five regions. We had thought initially -- and we proceeded with the idea that the GAC's internal structure really was consisted of three vice chairs. And we wanted to mirror that structure in our proposal. Your comments will be taken into account. Thank you.

MANAL ISMAIL: U.S.

UNITED STATES: Thank you, Manal. And thank you to our BGRI colleagues and especially George being here, since you were actually on the BWG NomCom. So I suppose I need to offer a softener apology in advance, because I'm going to take us back to the decision that was taken by the GAC. In fact, I think it was 2007, George. And our colleague at the time was Jayantha Fernando from Sri Lanka who had been asked by the then chair, Sharil Tarmizi from -- or by you but facilitated by the GAC chair. And, actually, he was quite willing and sought to work very closely with you, if I recall,

to find ways to brief the GAC and keep the GAC informed as to what the NomCom was actually doing.

Unless the confidentiality requirements of the Nominating Committee have been amended significantly, I think the challenge remains for us today is that whoever is a so-called -- may I put quotes -- GAC representative cannot actually confer with the GAC, share much material with the GAC, or then obtain GAC advice to then take back to the Nominating Committee. So I think that is the heart of the problem we have always faced is this issue of characterizing GAC participation as representing the GAC. And we have to date never found a mechanism by which we could actually do that effectively that is respectful of all of our different government views.

Quite candidly, there are many different views around this table as there are individuals here as to what we possibly as a country might think would be a good set of expertise and experience as a Nominating Committee member. And they're probably dramatically different potentially, and to each his own.

Our problem is an individual government is free to share their individual perspective. The challenge is trying to suggest that their representation is actually somehow representing the totality of the views of the GAC.

So I think we're still back at the heart of the problem, which is the confidentiality requirements, appropriate as they are, create a bit of an obstacle -- actually, a fundamental obstacle, quite candidly, for the GAC to be able participate effectively. I think I will leave it at that rather than get into a debate about the numbers; because, quite candidly, we

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need to cross this bridge. So we, the United States, are not in a position to endorse the proposal at the present time. Thank you.

GEORGE SADOWSKY: I want to make a couple comments on what you said. First of all, you're right. There is a structural issue here that has gotten in the way in the past.

The policy of the NomCom is, in short, to be totally transparent with respect to process and to be totally opaque with respect to the identities of people. So, in terms of process, anything can be reported back. In terms of people, nothing.

One other thing is that we -- we ask -- we require, according to bylaws, that, when somebody is appointed to the Nominating Committee, they leave their organization behind and are concerned only with the welfare of their decisions with respect to ICANN. Clearly, that doesn't happen 100%. But that is the goal. And in the NomCom chairs -- the NomComs that I've chaired, it has been by and large respected.

MANAL ISMAIL: Thank you, George. And thank you, everyone, for sitting just five more minutes. I'm sorry we're keeping you after time, the schedule time. We have Lebanon and Mike Silber, next. Lebanon, please.

LEBANON: Well, I'll give my two minutes away. That's okay. I don't want to hold anybody back. I think Olga addressed some of the issues. We're reconsidering in general how the GAC is operating as far as the number

of vice chairman, the regions, et cetera. So that would have to be addressed at one point or another. And I leave it to that. Thanks.

MANAL ISMAIL: Thank you, Lebanon. Mike?

MIKE SILBER: Very briefly. Let me just say, firstly, I think that the GAC reappointing somebody to the Nominating Committee while the restructuring goes through would be a very good sign that the GAC is interested. Because right now we're getting pushback saying why are you giving the GAC more people? And to say we want even more people is going to be regarded with a degree of amusement by some people given the GAC doesn't even appoint one person right now.

I think George's point is taken with regards to the U.S. is, if the GAC is able to give their designees direction as to the type of people, geographic or gender diversity, the skill sets that the GAC would like to see in people coming through to the SOs as well as to the board, because the Nominating Committee doesn't just appoint for the -- board -- the SOs are very important -- that, to me, is a very useful message to carry from the GAC. And that's a message the GAC can send through.

What the GAC cannot do is have an in-depth internal consultation on the identity of individual candidates. And, if that's accepted, I think the GAC is a very useful place.

But please also understand that we're already getting pushback in terms of the proposed expansion of the number of the Nominating Committee. And we're getting pushback that we're not going to be creating a Nominating Committee of 50 or 100 people to appoint to our positions.

MANAL ISMAIL: Australia, please, yes.

BILL GRAHAM: Thank you for all for your attention during the meeting today. I really appreciate you staying around to discuss these important matters.

Before we close, I'd like to say to you many of you probably know I have not been re-elected to the ICANN board. So my term on the board will end at the end of the -- at the annual general meeting on Thursday. As a result, I will no longer be able to co-chair this group.

The board is going through its consideration of who we would like to appoint in that position on Wednesday. And it will be announced on Thursday. So I can't tell you who the new chair will be. I can tell you we have a very strong candidate, and I'm sure he will ably serve in this position. Finally, I'd just like to thank you all for your collaboration, assistance, and goodwill during my period as co-chair with Manal. I particularly want to ask Manal -- thank Manal for her great partnership and collaboration as we've chaired this together. And, with that, I'll turn it back. Thank you.

MANAL ISMAIL: Thank you very much, Bill. And you're going to be very much missed. I really enjoyed working with you. Thank you.

INDESCERNIBLE: Thank you all. Thanks to, I guess -- thanks to Bill, you really will be missed. And for GAC colleagues, so tomorrow there are no GAC meetings but there are many meetings to attend, so please, have a look at the agenda. Amongst that there are the decisions we talked about today with the high interest sessions for SOs and ACs which the GAC participation will be encouraged at. I have been asked to participate in the identify and prioritizing matters of interest for second round of new gTLDs, so I'll be there at that one and at the others. There's also the WHOIS session, and then we'll be back in GAC meetings on Tuesday. And if colleagues could remember that we have the GNSO commercial stakeholder group has invited us to a cross constituency breakfast before we begin on the Tuesday. So that's at 8:00, and we're back in the GAC room at 9:30. Thanks to all.

MANAL ISMAIL: Iran.

IRAN: Just a simple question. You continue your work later on because we have still to do something. It's not finished, your activities.

                      Thank you.

[END OF TRANSCRIPT]