

# ICANN | GAC

## Governmental Advisory Committee

Washington D.C., United States of America, 20 June 2023

### **GAC Communiqué – Washington D.C., United States of America<sup>1</sup>**

*The Washington D.C. Communiqué was drafted and agreed in a hybrid setting, during the ICANN77 Policy Forum, with some GAC participants in Washington D.C., United States, and others remotely. The Communiqué was circulated to the GAC immediately after the meeting to provide an opportunity for all GAC Members and Observers to consider it before publication, bearing in mind the special circumstances of a hybrid meeting. No objections were raised during the agreed timeframe before publication.*

## **I. Introduction**

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Washington D.C., United States of America, in a hybrid setting including remote participation, from 12 to 15 June 2023.

Seventy three (73) GAC Members and eight (8) Observers attended the meeting.

The GAC meeting was conducted as part of the ICANN77 Policy Forum. All GAC plenary and working group sessions were conducted as open meetings.

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<sup>1</sup> To access previous GAC Advice, whether on the same or other topics, past GAC communiqués are available at: <https://gac.icann.org/>

## II. Inter-Constituency Activities and Community Engagement

### Meeting with the ICANN Board

The GAC met with the ICANN Board and discussed:

- New gTLD Subsequent Rounds, including:
  - Predictability in New gTLD Applications
  - Registry Voluntary Commitments and Public Interest Commitments
  - Applicant Support
  - GAC Consensus Advice and GAC Early Warnings
  - Auctions: Mechanisms of Last Resort/Private resolution of Contention Sets
- Privacy/Proxy Services Accreditation Implementation

### Meeting with the At-Large Advisory Committee (ALAC)

In preparation for the ICANN77 Policy Forum, the GAC met with members of the ALAC and discussed:

- New gTLD Program Next Round
- The 2017 Joint Advice on Enabling Inclusive, Informed and Meaningful Participation at ICANN
- DNS Abuse

### Meeting with the Generic Names Supporting Organization (GNSO)

The GAC met with members of the GNSO Council and discussed:

- New gTLD Program Next Round
- DNS Abuse Mitigation
- Registration Data Request Service

### Cross Community Discussions

GAC Members participated in relevant cross-community sessions scheduled as part of ICANN77, including meetings of the GAC/ALAC/GNSO Facilitated Dialogue on Closed Generics TLD and the GNSO Guidance Process on Applicant Support.

## III. Internal Matters

### 1. GAC Membership

There are currently 182 GAC Member States and Territories and 38 Observer Organizations.

### 2. GAC Elections

The 2023 election process for GAC Vice-Chairs will be initiated shortly after the ICANN77 meeting. The initial nomination period will close on 6 September 2023. If needed, a voting process will be conducted until 22 October 2023, during the ICANN78 public meeting, after which time the election results will be announced.

### 3. GAC Working Groups

- **GAC Public Safety Working Group (PSWG)**

The GAC Public Safety Working Group (PSWG) continued its work to advocate for improved measures to combat DNS Abuse and promote lawful, effective access to domain name registration data.

The PSWG participated in the Capacity Development Workshop held just prior to ICANN77, helping to orient new GAC members to several topics including the importance of domain name registration data and current efforts to combat DNS Abuse.

The PSWG also participated in a session to brief the GAC on DNS Abuse Mitigation that included presentations about 1) the proposed DNS Abuse amendments to the Registry Agreement and Registrar Accreditation Agreement contracts; 2) EURid's (the Registry operating .EU) Abuse Prediction and Early Warning System to screen potential malicious registrations; 3) the USRWG Capacity Development Workshop; and 4) issues to consider for the GAC Public Comment on the contract amendments.

The PSWG continued its active participation to support the GAC Small Group that focuses on domain name registration issues including by participating in the update to the GAC on these issues. The presentation included an update on the Registration Data Request Service (RDRS). With regard to the RDRS, the PSWG thanked ICANN org for its efforts to support the ability to maintain the confidentiality of requests for Law Enforcement Agencies.

The PSWG also continued its outreach, holding discussions with a number of constituent groups within ICANN and public safety bodies.

- **GAC Underserved Regions Working Group (USRWG)**

The GAC Underserved Regions Working Group (USRWG), in collaboration with the United States Government held a successful Capacity Development Workshop (CDW) on DNS Abuse on 11 June 2023.

This initiative was part of a wider GAC capacity development effort introduced by the WG during ICANN75.

Thanks to the contributions of GAC and PSWG topic leads, as well as representatives from ICANN Global Domains and Strategy (GDS), ICANN Compliance, and Contracted Parties, the workshop enabled GAC participants to understand and contribute to the public comment process regarding the proposed amendments to the Registry Agreement and Registrar Accreditation Agreement.

Language-based breakouts provided an opportunity for many GAC participants to brainstorm, in their native language, on the ICANN Public Comment process and DNS Abuse issues. One of the key outcomes of the workshop was that volunteers from a diversity of countries stepped forward to join a drafting group. This “small group” will develop an initial draft of a GAC Public Comment for wider GAC review, shortly after ICANN77.

The GAC USRWG capacity development effort will continue with subsequent workshops and webinars and a post-workshop survey will be conducted to tailor capacity development initiatives on topics of GAC interest.

#### **4. Emerging Technologies**

The GAC briefly discussed Emerging Technologies, and in particular artificial intelligence, alternative DNS roots and blockchain, including an update from WIPO regarding rights protection in these spaces. Encouraged by the OCTO-034 report on “Challenges with Alternative Naming Systems”, the GAC agreed to have capacity building on this topic during ICANN78 in Hamburg. The GAC will reach out to the ICANN technical community and ICANN org for experts to present during the capacity building workshop.

## IV. Issues of Importance to the GAC

### 1. Closed Generic gTLDs

The GAC expresses its appreciation to GAC representatives who are collaborating with members of the GNSO and ALAC in the facilitated dialogue group, and remains committed to continuing this work after ICANN77.

Considering that the Draft Framework for Closed Generic gTLDs<sup>2</sup> (Draft Framework) has been circulated for review and input by the GAC/GNSO/ALAC facilitated dialogue group on Closed Generic gTLDs just ahead of the start of ICANN77, the GAC conducted only a preliminary discussion on the proposed Draft Framework.

Preliminary reactions from the GAC addressed various areas of the Draft Framework. The GAC raised concerns over the lack of convincing resolutions for preliminary yet fundamental matters in the Draft Framework and discussed the need for further clarification on use cases contained. These pertain among the others to competition issues, the overall assessment of the value of Closed Generic gTLDs for the Internet, their potential negative economic and social impacts, and the evaluation panel including the criteria for its selection as well as its membership. The GAC also expressed doubts regarding the identification of compelling case studies or the lack of operational definitions of critical concepts such as public interest. The GAC also discussed potential ways and means for governments to intervene during the evaluation of potential applications for Closed Generic gTLDs.

The GAC reiterates its commitment to further elaborate its position in the period set for community comments on the Draft Framework, and seeks to address the above mentioned questions, and understands that a final framework, if one is agreed upon, could serve as a basis for future policy work to define criteria and rules for Closed Generic gTLD applications in the next round of new gTLDs. It further emphasizes that additional steps, including the possible initiation of a GNSO policy process, should only be undertaken if in the final draft specific solutions are proposed and the above mentioned issues are adequately addressed.

The GAC recalls that no policy option, including the prohibition of Closed Generic gTLDs, should be excluded if a way forward that satisfies GAC concerns is not found. In any event, the framework will be subject to the GAC consensus agreement.

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<sup>2</sup> Draft Framework on Closed Generic gTLDs (8 June 2023):

<https://gns0.icann.org/sites/default/files/policy/2023/draft/draft-framework-for-closed-generic-gtlds-08jun23-en.pdf>

## **2. Registry Voluntary Commitments (RVCs) / Public Interest Commitments (PICs) in New gTLDs**

During GAC discussions on the New gTLD Program Next Round, the GAC noted that additional mandatory and voluntary PICs should remain possible for future New gTLDs in order to address emerging public policy concerns.

## **3. GAC Consensus Advice and GAC Early Warnings in New gTLDs**

The GAC welcomes engaging in a dialogue with the ICANN Board on GAC Consensus Advice and GAC Early Warnings, as discussed at ICANN77.

The GAC reiterates that GAC Early Warnings and GAC Advice are both important and useful instruments to identify applications that raise public policy concerns and should be an integral part of any future rounds. The GAC remains open to increasing transparency and fairness of these, including giving applicants an opportunity for direct dialogue with the GAC. In this sense, the GAC sees value in the recommendations regarding specified time periods for Early Warnings, direct dialogue between the Early Warning issuing government and the applicant, and the opportunity for the applicant to amend its applications based on those consultations.

The GAC believes that GAC Early Warnings are a useful mechanism for beginning a discussion with an applicant on particular issues, questions and potential sensitivities by one or more governments, where an application may potentially infringe national laws or raise sensitivities. Constructive dialogue through this process can help applicants better understand the concerns of governments and help governments better understand the planned operation of proposed gTLDs. GAC Early Warnings may help the applicant to know how it can mitigate concerns and find a mutually acceptable solution.

The GAC hence considers a GAC Early Warning mechanism an essential element of any future round.

However, the GAC does not consider that recommendations should constrain GAC activities which are carried out in accordance with the ICANN Bylaws and the GAC's internal procedures. In this regard, the GAC does not support the recommended limitation (Implementation Guidance 30.2) regarding the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to disincentivizing any such Advice being submitted after the finalization and publication of the next Applicant Guidebook.

Some GAC Members disagree with Recommendation Guidance 30.4 which notes the removal of language regarding possible changes to Section 3.1 of the 2012 Applicant Guidebook which states that GAC Consensus Advice "will create a strong presumption for the ICANN Board that the

application should not be approved.” With a view to responding to the concerns that inform the recommendation to omit such language, some GAC Members propose the following alternative wording to that specific part of Section 3.1 of the future Applicant Guidebook: “will create a strong presumption for the ICANN Board that the application should not be approved, without prejudice to the applicable provisions of the Bylaws”. The GAC welcomes the opportunity to engage in constructive dialogue with the Board in order to explore alternatives which may offer a way forward and accommodate the different views existing on this matter.

Regarding Recommendation 30.6, the GAC agrees with the notion that a GAC Early Warning should be explained and that in order to ensure constructive dialogue at an early stage of the procedure and mitigate these concerns it is important for government(s) issuing Early Warning(s) or the GAC in its advice to provide a written explanation/rationale. However, the GAC wishes to recall the compromise language brought forward by the GAC, as applications may not always be able to be remedied in the opinion of the government(s) issuing a GAC Early Warning. Therefore, the GAC proposes the adoption of an updated language to Recommendation 30.6 as follows: “[...] how the applicant may potentially address the GAC member’s concerns *to the extent feasible*”.

#### 4. DNS Abuse

Governments at ICANN are concerned by the negative impacts of DNS Abuse. The GAC therefore appreciates the proactive and focused efforts of ICANN and the Contracted Parties to negotiate clear and enforceable contract amendments to disrupt or mitigate DNS Abuse.

The GAC welcomes the clarity provided during its DNS Abuse session that in case of non-compliance ICANN Compliance would be able to suspend or revoke the agreement with the contracted party, and it encourages ICANN org and the negotiating team to ensure this is clear in this process under the amendment. The GAC further welcomes the elaboration in the ICANN Advisory on the concept of "actionable evidence." The GAC shares the Advisory's encouragement for registrars "to proactively monitor the Registered Names that they sponsor to identify potential DNS Abuse" and stresses that registry operators should also obtain actionable evidence through their own proactive efforts.

The GAC supports the increased contract obligations to raise the baseline in addressing DNS Abuse and looks forward to contributing to the Public Comment Process. The GAC also welcomes any further work the negotiating team can do to clarify forthcoming reporting obligations with a view to promote transparency of the contracted parties’ policies and how they respond to DNS Abuse. The GAC also reinforces its commitment to contribute to further work (including contract amendments, PDPs and creation of best practices) within the multistakeholder process that will be necessary in the continuing journey to address this threat to the security of the DNS, including before the next round of new gTLD applications.

## 5. Registration Data Accuracy

The GAC remains committed to working within the Accuracy Scoping Team to assess the current state of accuracy under ICANN's contracts. Accuracy of registration data is an important element in law enforcement and cybersecurity investigations, domain name registration management, and other legitimate third-party interests. At the same time, the GAC reiterates that maintaining accuracy must be considered along with any policy's impact on the privacy needs of all registrants, including those with enhanced privacy needs.

The GAC welcomes ICANN org's completion of a Data Protection Impact Assessment (DPIA) on a contractual compliance audit that could shed light on the current state of accuracy. In particular, the GAC is encouraged by ICANN org's determination that this audit would comply with the EU General Data Protection Regulation (GDPR). The GAC supports ICANN and Contracted Parties' efforts to finalize its Data Protection Agreement (DPA) and stresses the importance of finalizing these agreements expeditiously which will support the Scoping Team's effort to move forward with its work. Completion of a DPA and DPIAs will help ensure ICANN org is best equipped to receive feedback from the relevant European Data Protection Authorities regarding ICANN's legal basis to process registration data for the purposes of measuring accuracy.

Finally, the GAC notes that over six months have passed since the GNSO adopted a motion to pause the work of the Scoping Team. In light of the expiration of this pause, the GAC would welcome an update on plans to resume the Scoping Team's work, including on any progress toward selection of a new chair. The GAC also flags that it would be helpful to receive quarterly updates on the status of the DPAs and to give further consideration to activities that may be resumed by the Accuracy Scoping Team in the interim.

## 6. Registration Data Request Service

The GAC looks forward to the launch of the Registration Data Request Service (RDRS) and supports efforts to generate data that can inform further community discussion on how an access and disclosure system in line with Phase 2 of the Expedited Policy Development Process can best meet the needs of the system's users and the public.

The GAC notes the importance of maximizing voluntary participation in the system, including through effective outreach and potential incentive structures.

Further, the GAC stresses the importance of providing users of the RDRS with easy to access step-by-step training, and guidance in the form of Frequently Asked Questions (FAQs) and answers.



## 7. Registration Data Consensus Policy

The GAC welcomes implementation of the EPDP Phase 1 recommendations and reiterates the importance of the Consensus Policy's ability to comply with existing data protection principles while allowing Contracted Parties to process data in line with relevant obligations within their jurisdictions.

The GAC takes note of ICANN's summary of public comments on Phase 1 implementation and supports the Implementation Project Team's suggestion, in line with the GAC's public comment, to reduce the timeline for urgent requests to twenty-four hours.

Separately, the GAC notes that other public policy concerns remained unaddressed. The GAC recalls its initial comments, which retains in full, that "contracted parties should collect and make data of legal persons publicly available."<sup>3</sup> Further, "Additional safeguards may be considered for the case where the email address of a legal person contains personal data, in which case a functional email address can be published instead." Additionally, the GAC highlights the need to require the collection and publication of reseller data. The latter is especially critical to identifying the parties responsible for selling domain names directly to registrants and to highlight an important point of contact that may be best positioned to provide meaningful data on these registrants and/or investigate and mitigate abuse conducted by those registrants.

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<sup>3</sup> GAC comment on Draft Registration Data Consensus Policy for gTLDs (21 Nov. 2022): <https://gac.icann.org/statement/public/gac-comments-registration-data-consensus-policy-21nov22.pdf>

## V. GAC Consensus Advice to ICANN Board

The following items of advice from the GAC to the Board have been reached on the basis of consensus as defined in the ICANN Bylaws<sup>4</sup>:

### 1. Predictability in New gTLD Applications

#### a. The GAC advises the Board:

- i. To take steps to ensure equitable participation in the proposed Standing Predictability Implementation Review Team (SPIRT) by all interested ICANN communities, on an equal footing.

#### RATIONALE

The GAC appreciates the efforts to create a Predictability Framework. GAC Members note that further clarification on the implementation of the SPIRT is necessary, as well as on the role the GAC will play in it, especially in light of Implementation Guidance 2.3 of the SubPro PDP Working Group Final Report suggesting direct dialogue between the SPIRT, ICANN org and the ICANN Board on GAC Consensus Advice, in which the GAC expects to be included as well, as discussed with the Board and GNSO Council during ICANN77. Furthermore, GAC members emphasize the importance of the opportunity for equitable participation on an equal footing on the SPIRT by all interested ICANN communities.

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<sup>4</sup> Bylaws section.12.2.(a)(x) The advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the Board determines to take an action that is not consistent with Governmental Advisory Committee advice, it shall so inform the Governmental Advisory Committee and state the reasons why it decided not to follow that advice. Any Governmental Advisory Committee advice approved by a full Governmental Advisory Committee consensus, understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection (“GAC Consensus Advice”), may only be rejected by a vote of no less than 60% of the Board, and the Governmental Advisory Committee and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution. The Governmental Advisory Committee will state whether any advice it gives to the Board is GAC Consensus Advice.

## 2. Registry Voluntary Commitments (RVCs) / Public Interest Commitments (PICs) in New gTLDs

### a. The GAC advises the Board:

- i. To ensure that any future Registry Voluntary Commitments (RVCs) and Public Interest Commitments (PICs) are enforceable through clear contractual obligations, and that consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties.

### RATIONALE

The GAC recalls persistent GAC concerns regarding both the weak implementation of PICs applicable to gTLDs in highly-regulated sectors and the lack of clarity and effectiveness of the mechanism to resolve disputes (the Public Interest Commitments Dispute Resolution Process or PICDRP) and recommends that these issues are remedied in any subsequent rounds.

## 3. Applicant Support in New gTLD Applications

### a. The GAC advises the Board:

- i. To specify ICANN's plans related to steps to expand financial support and engage with actors in underrepresented or underserved regions by ICANN78 in order to inform GAC deliberations on these matters.
- ii. To take steps to substantially reduce or eliminate the application fees and ongoing ICANN registry fees to expand financial support for applicants from underrepresented or underserved regions.
- iii. To take timely steps to facilitate significant global diversification in the New gTLD program by ensuring increased engagement with a diverse array of people and organizations in underrepresented or underserved markets and regions, including by:
  - Raising awareness of the Applicant Support Program;
  - Providing training and assistance to potential applicants;
  - Exploring the potential to support the provision of back-end services; and
  - Providing adequate funding for the Applicant Support Program consistent with diversification targets.

### RATIONALE

The GAC reaffirms the importance of increasing the number and geographical distribution of applications from underrepresented or underserved regions in future rounds of New gTLDs through the Applicant Support Program. The GAC reiterates its "support for proposals to substantially reduce

or eliminate the application fees and ongoing ICANN registry fees to expand financial support”<sup>5</sup>, in order to sufficiently cover all such applications.

Without a substantial reduction in, or financial support for, the application and ongoing fees, many potential applicants in underrepresented or underserved regions would be unable to apply due to the status of their economies, where available capital for ICT/digital initiatives has been historically limited.

The GAC highlights that non-financial support is also an important element of an applicant support programme, for example awareness raising, capacity development services and training. Assisting in the provision of back-end services may also be appropriate in some cases.

#### **4. Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs**

##### **a. The GAC advises the Board:**

- i. To take steps to avoid the use of auctions of last resort in contentions between commercial and non-commercial applications; alternative means for the resolution of such contention sets, such as drawing lots, may be explored.
- ii. To ban or strongly disincentivize private monetary means of resolution of contention sets, including private auctions.

##### **RATIONALE**

While the GAC acknowledges that, in an attempt to reduce potential gaming, recommendation 35.3 of the SubPro PDP Working Group Final Report included the need for applications to be submitted with a “bona fide” intention to operate a TLD, the GAC reiterates concerns regarding the implementation of this condition, and notes that punitive measures for non compliance with the condition of submission of a “bona fide” intention are not sufficiently defined.

Regarding Auctions of Last Resort, the GAC reaffirms its view that they should not be used in contentions between commercial and non-commercial applications. In addition the GAC reiterates that private monetary means of resolution of contention sets should be banned or strongly disincentivized, to prevent applications under false pretences for monetary gain. Other means, like drawing lots, may be used to resolve contention sets.

The GAC supports ALAC’s view expressed in its advice to the ICANN Board noting that they believe there “should be a ban on private auctions” and that “by mandating ICANN only auctions, the proceeds of any such ICANN auctions can at least be directed for uses in pursuit of public interest, such as was determined through the CCWG on Auction Proceeds.”<sup>6</sup>

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<sup>5</sup> GAC Comment on GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration, 1 June 2021: <https://gac.icann.org/publications/public/gac-comment-subpro-final-outputs-1june21.pdf>

<sup>6</sup> [ALAC Advice to the ICANN Board on the Subsequent Procedures PDP Recommendations](#) (16 April 2021)

## **VI. Follow-up on Previous Advice**

The following items reflect matters related to previous consensus advice provided to the Board.

### **1. Privacy and Proxy Services**

The GAC thanks the Board for the reprioritisation of the Privacy Proxy Services Accreditation Issues (PPSAI) policy recommendations, as per the GAC's previous advice. In addition, the ICANN76 Advice requested that the Board regularly update the GAC on the status of activities related to Privacy and Proxy services. In that regard, the GAC appreciates the update from the Board during ICANN77 on the status of developments regarding Privacy and Proxy services and the GAC would welcome continued updates, including providing detail in writing.

## **VII. Next Meeting**

The GAC is scheduled to meet next during the ICANN78 Annual General Meeting in Hamburg, Germany on 21-26 October 2023.

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ICANN77 | PF – Joint Session: ICANN Board and GAC  
Wednesday, June 14 2023 – 09:00 to 10:15 DCA

GULTEN TEPE:

Welcome to the ICANN 77 GAC meeting with the ICANN Board being held on Wednesday, June 14th at 9:00 local time. Recognizing that these are public sessions and other members of the ICANN community may be in attendance, the GAC leadership and support staff encourage all of you who are GAC members to type your name and affiliation in the participation chat pod. This is to keep accurate attendance records. To ensure transparency of participation in ICANN's multi-stakeholder model, we ask that you sign into Zoom sessions using your full name. If you would like to ask a question or make a comment, please type it in the chat by starting and ending your sentence with a question or comment as indicated in the chat. The feature is located at the bottom of your Zoom window. Interpretation for GAC sessions include all six UN languages and Portuguese. Participants can select the language they wish to speak or listen to by clicking on the interpretation icon on Zoom toolbar. If you wish to speak, please raise your hand. Once the session facilitator calls upon you, please unmute yourself and take the floor. Remember to state your name and the language you will speak in case you will be speaking a language other than English. Speak clearly and at a reasonable pace to allow for accurate interpretation. Please make sure to mute all other devices when you're speaking. Finally, this session, like all other ICANN activities, is governed by the ICANN expected standards of behavior. In case of disruption during the session, our technical support team will mute all participants. This

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session is being recorded and all materials will be made available on the ICANN 77 meetings page. With that, I would like to leave the floor to GAC Chair, Nicolas Caballero. Over to you, Nico.

NICOLAS CABALLERO:

Thank you very much, Gulten. Good morning, good afternoon, and good evening for those online. Welcome to the ICANN 77 GAC joint meeting with the ICANN Board. Welcome Tripti, welcome Danko, welcome Sally, welcome Becky, Avri, Nigel, vice chairs, distinguished Board members, distinguished GAC colleagues.

Some housekeeping details before I jump into the agenda items. We're going to have this session for 75 minutes, then a short 30-minute break. Well, not that short though, but then we'll have the GAC discussion on DNS abuse session for 60 minutes, and right after that we'll have the discussion on emerging technologies for 30 minutes, and then right after that we'll have the lunch break.

So for today's agenda, the topics we have, basically a review of topics and questions regarding new gTLD subsequent rounds and privacy and proxy services accreditation implementation, also known as PPSAI, and then AOB, all other business.

So just in order to give you some color and some background, let me read the session objectives. Basically, an ICANN public meeting creates the opportunity for the GAC to meet and interact with other ICANN groups, organizations, and structures, enabling the committee to coordinate and resolve specific policy work and operational matters to build channels of communication with other groups, to address current

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issues of government interest, and facilitate future informational exchanges.

The GAC meeting with the ICANN Board of directors is one of those important opportunities, so today's meeting with the ICANN Board will enable the GAC to share views and ask timely questions to Board members on topics of importance to the committee.

Let me also give you some background on recent developments. Recent GAC Board meetings have covered a range of subjects and topics that have mostly centered around formal questions. The GAC submits to the Board about two to three weeks before the start of the ICANN public meeting. For some meetings, the Board presents a number of standard questions or session topics to community groups for them to respond to the Board.

No topics have been formally proposed by the Board to the GAC for this session, but recent Board to GAC correspondence offers insights on a couple of topics ripe for discussion. On April 26, 2023, Tripti Sinha, the Board chair, wrote to me and other community leaders regarding the rebalancing of the ICANN Nominating Committee membership.

In that correspondence, Tripti noted that the ICANN community has been discussing for over 10 years the issue of the rebalancing of the ICANN Nominating Committee, or NomCom. So perhaps in anticipation of ICANN 77 basically, she asked the GAC chair, that is myself, to consider answering a short list of questions to engage with the ICANN community to understand community views on what form of future NomCom rebalancing could take. Those questions are listed for public access.



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On May 22, 2023, the Board chair, Tripti wrote to me again on the topic of the final report on the new gTLD subsequent procedures policy development process. In that letter, Tripti reflected that a number of GNSO's final report recommendations still needed to be resolved. Two of those key issues, GAC consensus advice and GAC early warnings, are something that the Board, I guess, has a particular interest in. Specifically, Tripti's letter seeks the GAC's views on these critical issues. Specific excerpts from that letter will be provided later on for you to review.

So with that, I don't want to go any further. With that, welcome again, everyone, and let me give the floor to Tripti Sinha, ICANN Board chair. Tripti, the floor is yours.

TRIPTI SINHA:

Thank you, Nico. Let me join Nico in welcoming all of you to ICANN 77, being hosted in Washington, D.C. for the first time. Welcome. As Nico just highlighted, there's some extremely key issues that we need to go over. The next round of gTLD subsequent procedures is a major initiative for ICANN, and we need to navigate some very, very complex issues, and we really appreciate the GAC's engagement.

On the Board, Becky and Avri are taking the lead in shepherding this particular initiative. So with that context, I would like to turn this over to Becky.

BECKY BURR:

Do you want to raise the questions that you sent? Would that be the best?

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NICOLAS CABALLERO: If that's okay with you.

BECKY BURR: You've got them right there. Okay, perfect. Thanks very much. This issue is, there are several questions that you provide, or not questions, but information that you provided about advice that the GAC was thinking about giving. I just would like to say it was extremely helpful to us, and I think to the whole community, to have this advance note on what you guys were thinking about and talking about. So I just want to thank the GAC for taking that approach, because we on the Board certainly found it useful, and I believe the GNSO council that contributed to a really good session between the GAC and the council.

So this issue is on the GAC advice and GAC early warning, and let's see, is this the first question? So the first issue that comes up is predictability, and Avri's going to talk to that.

AVRI DORIA: Thank you. So on predictability, I guess it's the draft advice, I'm trying to find the right words for it, is talking about the GAC's need to have a full and equal footing participation. And I think that the Board has been very supportive of that. What I'm actually wondering, having listened to the GNSO and GAC session yesterday, and they described how that would work, and how their notion and belief of it being an equal footing. And so it's going to get to the point where, did that sound to you like something that would work as an equal footing given that?

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To me it did, but of course I'm not you. So that would be a place to start. So I think that we're going into this saying, yes, we agree that the GAC should be able to participate in the spirit on an equal footing. And we have the GNSO and Paul yesterday explaining that because it's variable and it depends on the issue, and as many people can participate as have something to do with the issue, etc. And of course Paul, stated his message better than I could.

But in terms of looking of that and looking at the possible advice, that would be probably the starting place. If that doesn't work, then where do we go from there? And that would have to be the conversations that you have with the GNSO, that we have with the GNSO, that perhaps we have together as time moves on. I don't know if there's anything you want to add to that.

BECKY BURR:

No, other than we, of course, welcome all of the engagement that the GAC is prepared to provide.

AVRI DORIA:

Did you want to go to questions on each of these in between? Yeah, yeah.

NICOLAS CABALLERO:

Thank you, Avri. Thank you, Becky. I was going to ask you that. Would you like to go over the questions and then...

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BECKY BARR: It might be easier just to go through all of these and then allow people...

NICOLAS CABALLERO: And then take questions. Okay, perfect. So back to you, Becky.

BECKY BARR: So the next issue that you raised is something that you're thinking about providing advice on, is the registry voluntary commitments, and urging the Board to ensure that any future registry voluntary commitments are enforceable. So I want to start by saying the Board has discussed this issue of enforceability of PICs and RVCs.

And as a sort of fundamental going in principle, there's a clear commitment on the Board that anything that gets put in contracts with new gTLD applicants will be enforceable. We don't want to have anything in a contract that is not enforceable.

And when I say enforceable, I mean from two perspectives. One perspective is, is it as a practical matter enforceable? What are the criteria by which ICANN will know that a registry who has made a voluntary commitment to address a public policy concern, how will the Board, how will ICANN Org know and how will ICANN Compliance know that you are, that the registry is in compliance or not in compliance? So as a fundamental issue, we will be looking for RVCs that are enforceable as a practical matter. And we're talking about what mechanisms those would need to be.

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The other issue, of course, is that it has to be enforceable from the perspective of ICANN law in the sense that a PIC or an RVC that's offered can't be inconsistent with our commitments and core values in the bylaws. So we, I want to say, and I think I can say this on behalf of the Board, that we will act very seriously and take this very seriously to ensure that any voluntary commitments that go into an ICANN contract are enforceable from a practical and legal, ICANN Legal perspective.

Having said that, the suggestion that the GAC has made that we can address this enforceability issue through clear contractual provisions only gets us so far. That's absolutely necessary. Whatever's in the contract has to be clear. But we also have to keep in mind that there are ways, because of ICANN's accountability mechanisms and because we are committed to accountability, there are ways for people to challenge whether something's enforceable from an ICANN Legal perspective.

So what the Board as a preliminary matter has communicated to the GNSO Council on this is that we are prepared to accept their recommendations with respect to PIC RVCs if they can commit to us in writing, they can clarify in writing that when they use that term, PIC RVCs, they mean PIC RVCs that we agree, ICANN Org and the applicant agree are enforceable from a practical and a legal perspective.

And then the Board has said we want to now initiate a conversation with the community about how you make these things enforceable. As I said, the contract language is necessary, but not necessarily sufficient. So please look for us to be starting a conversation with the community, which I hope you all will participate, to talk about what processes are available to ensure that these things are enforceable.

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NICOLAS CABALLERO: Thank you, Becky. And by the way, I have Switzerland waiting, but as we agreed before, we'll go over the topics and then take questions. So Switzerland, please wait about, I would say, 10 minutes. Go ahead.

AVRI DORIA: Okay, yes, going to applicant support. First of all, the Board is very supportive of the whole motion of applicant support, have already approved most of the recommendations dealing with applicant support. The one that's sort of remaining are the ones that include distribution of funds to applicants either for helping to write applications or for helping to pay for legal fees.

The Board is very concerned and not likely to accept the notion of distributing funds. First of all, because the way it's written in the recommendations, it would be an open-ended commitment. It's sort of a commitment that comes without any bounding, which would be problematic in any case.

But there's also a problem in a fiduciary sense with giving out money to people who will be coming to you to apply for something, to get something. So we're very much sort of trying to focus this on the pro bono services and the support of those services. So what we've basically done is gone back and sort of said, can you think on this one a bit more about ways in which we can give that kind of support and can help and some of the other applicant support ideas that, for example, the GAC has sent through about reducing or eliminating fees?

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So that is one where we're looking at, can these things substitute for those? And we've gone back to the GNSO for that kind of further conversation and talk during the upcoming period of clarifications.

BECKY BURR:

Yeah, and just to say, the kinds of suggestions that you've made, such as the reduced fees, please, those are exactly the kinds of creative thinking that we want to look at and expand our applicant support.

The next topic that you raised was the provisions in the SubPro recommendations related to how GAC early warnings and GAC consensus advice is treated. Just to be clear, the Board has deferred consideration of those GNSO recommendations because the first thing we want to do is speak with the GAC about those recommendations, get a better understanding of where you're coming from, explain the constraints that we may have coming out of some of the IRPs and following through on our obligations under the bylaws with respect to engagement with the GAC.

So that was one of the letters that Tripti sent to Nico. We're going to be starting that process. We definitely do understand the GAC's concerns here. And as I said, I think our first step is a conversation with the GAC on how to approach those issues. As many of the GAC members who were involved in the transition discussions understand, we have to make sure that we have a system where the GAC is giving us advice that we can implement without violating the bylaws. Because I think we're all in agreement that no matter what level of deference we give to GAC advice, we cannot act on GAC advice that would cause us to violate our

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bylaws. I think we have a sort of baseline shared understanding there, but beyond that, we need to have a conversation about it.

AVRI DORIA:

And then next we have the auctions, mechanisms of last resort and resolution of contention sets. So on this one, we've said earlier that we intend to, and that may already be happening or happening soon, to basically get a consulting on auctions to find ways of using the auction as last resort and setting it up in such a way that it dissuades or disadvantages any notion of private auctions. As you heard from the GNSO, the recommendations do not contain a prohibition or an enablement of private auctions. They say nothing on it. And we will not be positioned to necessarily create policy on it, and nor are we sure that anyone could create any sort of policy that prohibited them, given how easy it is to cut a deck of cards and not call it an auction or such.

Now, there are mechanisms that can be used to allow for private resolution that isn't a financial, and some of those possibilities will be opened up during the implementation review of what kind of conversations could people have, how could they possibly change their applications or such so that the contention set decreases, etc. But at the moment, there's no intent to do anything about either enabling or disabling private auctions, but to disadvantage them to the extent that it's possible through the auction of last resort. So we'll be consulting on that and see where it goes.



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BECKY BARR: And just to clarify, ICANN is engaging an auctions expert to provide solid advice on how we can do that disincentivization for private auctions. So we've sort of run through that, and we are happy to receive questions and respond to questions and input from the GAC.

NICOLAS CABALLERO: Thank you very much, Becky. Thank you, Avri. And we do have questions. Switzerland, sorry to keep you waiting. Please go ahead, Jorge.

JORGE CANCIO: Yes, no problem at all. So for the record, Jorge Cancio, Swiss government, topic leads together with Canada, with Jason Merritt on subsequent procedures. So I'm one of the responsible persons for innovating again on this format, and I'm very happy that you find it useful that we share a kind of advanced draft copy of our advice with you.

And yesterday, it was really an extremely useful exchange. And my thanks go to the whole GNSO Council, but especially to Paul McGrady, who took a very hot seat, but gave us very good responses. So my kudos to Paul.

And yeah, thanks very much for your initial feedback, which is extremely valuable for our discussions tonight and tomorrow on the GAC communique, where we have to decide, okay, what pieces do we put as GAC consensus advice, what pieces go to other parts of the

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communicate, or what pieces do we shelf altogether, or what additions do we need?

So perhaps my question, and this is not a legal question, this is not a, I don't know, formal question. It's just a question to improve our conversation in the GAC, is whether you see in the draft advice we've put before you, whether you see any showstoppers, be it for procedural questions, or for wording questions, or for things that we would be running into open doors, and we would be creating perhaps an unnecessary layer of complexity by issuing GAC consensus advice.

So I would really love to hear your opinion whether any of those five pieces of draft GAC advice could be a showstopper, and we should perhaps consider something that may have slipped our minds. So thanks again very much also to Becky, of course, and Avri for your first reactions and enjoying very much this conversation and this new format of dialogue with you. Thank you.

NICOLAS CABALLERO: Thank you very much, Jorge, Switzerland. Becky, would you like to take that one now?

BECKY BARR: Thank you, Jorge. Of course, the GAC is entitled to give us whatever advice the GAC wants to give us, so I'm not going to say anything is a showstopper. The one thing I would suggest is, with respect to the early warnings and the consensus advice, I think it would be very useful for us to have the Board-GAC conversation on that issue before we get solidified advice, because I think we can educate each other, and

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through that conversation, any GAC advice might be more helpful to us if it is informed by our conversation, and our reaction will be better informed through that conversation. So that's with respect to sort of the topics that I'm focused on. I think it would be very useful for us to have that conversation before there's final GAC advice on it, and there's one other issue.

AVRI DORIA:

I wanted to look at the issue, and again, not for us to say what to give advice on, but on the auction of last resorts where it says, ensure that auctions of last resort are not used in contentions between commercial and non-commercial. And I certainly can understand the reason for that, but ensuring such a thing looks like it may be extremely difficult to do.

Now, at the moment, I can see this is definitely one of the issues that we would want to pass off to this auctions expert that we're getting and see whether there is any mechanism. But given the difference in corporate setups in different countries and the meanings of for-profit, not-for-profit, and lots of other things, I can just visualize this as I say, not a show stopper, but one that may be almost impossible to deliver in terms of ensuring that that can't happen. I don't surely know, and I guess that was part of what I was in Paul's answer yesterday also, is that that's sort of a difficult thing to do. So that's one where I just don't know. But I wanted to point out, as I say, perhaps not a show stopper, but perhaps impossible.

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NICOLAS CABALLERO: Thank you, Becky. Thank you, Avri. I have the CTU, Nigel Cassimire. Please, go ahead.

NIGEL CASSIMIRE: Thank you, Nico. I just wanted to put in a small country perspective on the applicant support matter. We are very pleased actually to find the Board supportive of the possibility of reducing or eliminating fees. We would, in the Caribbean, I mean, we certainly would qualify among the underrepresented or underserved areas. And we had the experience in the last round of trying to create a business case, and it really was impossible.

We have populations going from five thousand to just under three million in terms of the English-speaking Caribbean. And in total, we're talking five to seven million people in total. And it's really very difficult to make a business case. We found it very difficult to make a business case last time. So I think I would support the idea of the reduction or elimination. And I'll even suggest that I anticipate situations where, I mean, there are smaller territories in the Pacific as well.

I would suggest that we also consider the possibility of situations where we may need to eliminate fees in order to create the inclusivity and reduce the number of underrepresented areas in the DNS. Thank you.

NICOLAS CABALLERO: Would you like to take that one, Danko? Go ahead, please.

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DANKO JEVTOVIC:

Thank you. I'm also coming from a small country. It's like seven million altogether, Serbia, it's a developing country, even from Europe. And I can understand that fully. Also, I remember in the previous round, I was near at the time with the country code registry, and we tried to do something and it was too complex to make a business case. So we are very much aware of these challenges and thinking hard about them.

But also, I used to run a country code registry after that and understand also the technical and policy and all the complexities of running a registry. And I think more of a challenge is to actually run it in a manner that is secure, safe and stable to serve the community than only to apply.

So I think more challenges are in the next phases and we should together be more creative to find ways how to encourage applications and more understanding of how applicants can approach it. But also to maybe think about ways how to ease the successful working on the registries that will serve such small communities, especially in developing countries. So this is a very important subject for us and we are discussing that very much at the Board level. Also connected to the IDNs, meaning serving worldwide languages and scripts. Thank you.

NICOLAS CABALLERO:

Thank you, Danko, for that. I have the United Kingdom. Nigel, please go ahead.

NIGEL HICKSON:

Yes, thank you very much. First of all, I'd like to thank the Board for this session as always. It's become a really helpful and constructive dialogue. For some of us that remember Board-GAC discussions—of course, Avri and others are far more experienced than I. They were sometimes, well, I'd say confrontational. And now I think we have this really constructive and productive dialogue.

I can't speak on behalf of Jason Merritt, our esteemed colleague from Canada, who is the subject expert on SubPro issues and has worked very closely with Jorge on these issues. Jason is in the SubPro session this morning where he is the GAC representative on the IRT session, and he's very committed to that.

But I would say, I'm sure he would say as well if he was here, that we were very appreciative of the Board letter inviting dialogue between the GAC and the Board on some of these issues. And certainly, we're very willing to take that up. Thank you for your constructive responses on the subjects outlined. I think it's very useful and will put us in a much better position when we start discussing what to put in the communique.

I just had one question. And really, I suppose, to Becky. Thank you so much for explaining the dialogue that has taken place between the GNSO and the Board on the sort of obligations on RVCs and PICs and how they should be enforced.

And I just wanted to ask, I recall at one stage in this dialogue and I can't remember where it said, but it was in public documents, I'm not telling

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any secrets because I don't know any secrets, but you mentioned or the Board mentioned that one of the considerations would be the potential for bylaw changes as one of the options. And I just wondered whether there had been further consideration of that. Thank you so much.

BECKY BURR:

Thank you, Nigel, for the question. And yes, I think there's no secret that that is one of the possible approaches that the Board discussed. The purpose of the dialogue that the Board is going to initiate is to look at mechanisms, to look at what enforceability means from a bylaws perspective, to look at various approaches. We've heard many ideas about different ways of making things enforceable. And I think that's the conversation that we want to have.

It's possible at the end of the day we will come down and say there's an enforcement gap that we need to address by a very, very narrow bylaws change, but any bylaws change is a very serious matter. This would be a change to a fundamental bylaw. So to the extent we can find other mechanisms, I think that's the place to start. I don't think we want to take it off the table, but we clearly want to look for and have a conversation with the entire community about ways that we can enforce without any changes to our fundamental governing documents.

AVRI DORIA:

If I can add a little, for example, also among the discussions and arguments and such that we've heard is there is a very strong belief that the PICs and the RVCs can be made enforceable within the bylaws that

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we currently have. That is a very strongly held view by some. It's a view that is not held by others. So that's part of the reason why we need to have this longer discussion on what enforceability means and how do we stay within the bylaws on the PICs and RVCs and do it without incurring additional and too much risk in terms of how they could be challenged. And so part of it is within the IRT as it starts to work along on this, looking at all those issues and being the ones that actually finds out if there are any gaps when they perhaps look at cases on how things would be dealt with. And then in the conversation when we're talking with the whole community on what does enforceability mean, how do we enforce it without having to change that? And how do we keep to our mission? Basically, how do we serve this, keep to our mission, and yet still allow a significant use of the RVCs and PICs for resolving public policy issues or other concerns that we've got in terms of the approval of a registry? Thanks.

NICOLAS CABALLERO: Thank you again, Avri and Becky. And I have Brazil. Luciano, please go ahead.

LUCIANO MAZZA DE ANDRADE: Thank you, Nico. Thank you, the Board, for the explanations and the constructive approach to those issues. I just want to refer to one specific topic in this whole issue that we're discussing on the new gTLD subsequent rounds.

I think for our perspective, if you were to single out one topic, I think obviously, for obvious reasons, the issue of consensus advice is the



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crucial one, is the most sensitive for our constituency and from the government perspective. So I believe that that's the one we should make sure together that we get it right at the end of this process. So I think suggestions that we engage in a constructive dialogue, with a view to finding a solution to this, I think it's positive. And of course, I think within the GAC, we should discuss how to handle this and how to reflect this in a way or another in the discussions on the GAC advice. I think some to have to consider.

I just wanted to mention one specific recommendation that is not cited here as a recommendation 30.4. I think politically it's an important one. I think that's an issue that is mentioned in Tripti's letter. I think that's an important issue to be considered.

And we find that it would be concerning from a political perspective to have the whole recommendation, the set of recommendations regarding track five or geographic names has not changed. There was an understanding that, well, that's balanced how it is, so we don't have to change anything.

I think for certain communities, there might be space for improvement in that rules and that didn't happen. So there was an understanding that those rules were balanced and they should remain as they are. And then the only point where there's a suggestion to change is on this topic of the strong presumption. So I think it would be politically a very bad signal to say that's the only thing you are changing on those rules.

And just say I take issue with the notion that there is a legal issue. There's a question of how to—I think there are ways to address this and to find the right wording to make sure that you can use the expression,

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strong presumption, while make sure that the bylaws are respected. But I think that's something that we can continue to discuss in this dialogue and moving forward. Thank you.

NICOLAS CABALLERO: Thank you very much, Brazil. Becky, would you like to take that one?

BECKY BURR: Just a short confirmation. I want to assure you that we are very sensitive to the importance of the how we respond to recommendation 30.4 and the Board is not going to take action on that recommendation. Now, rather, we are going to engage in that conversation with the GAC to see if we can find a solution that addresses everybody's needs and is consistent with our legal obligations.

NICOLAS CABALLERO: Thank you very much, Becky. Gulten, can you please help me with the chat room? Go ahead, Gulten.

GULTEN TEPE: We have Roz from UK delegation raised hand. UK.

NICOLAS CABALLERO: Roz, go ahead, please.

ROSALIND KENNYBIRCH: Great. Thanks very much. And thanks so much, as always, for the Board coming here to discuss with us today with the GAC. It's all really, really

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useful. And I wanted to thank my colleague Nigel Cassimire from the CTU for his really valuable comments on the applicant support program earlier. Myself and my colleague from Argentina have been serving on the GGP in this regard.

So I just had a follow up question on this. As you know, and as has been said by GAC colleagues, it is very important to the GAC that SubPro helps to make the global DNS more inclusive. So in that regard, does the Board think that two million is adequate to help achieve this aim? And in that vein, what is the scope for increasing ICANN's financial commitment to the applicant support program? Thanks very much.

NICOLAS CABALLERO: Danko, would you like to go ahead?

DANKO JEVTOVIC: I presume that the two million you're mentioning is the number that was there for the applicant support in the last round. So we still have not discussed that. And the amount is something that we will come to it. But more discussion now is about how to frame the applicant support program and how to find the best support.

By the way, one thing of note is that the whole new gTLD program is revenue neutral by design. So in a way, the amount that applicants are paying is related to the costs of the program. So also the money for the applicant support by design is coming from the payments of the other applicants. So just to understand the context.

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So we will go back to it. I think the Board is inclined to do whatever can be done in a way that is sustainable, reasonable, and really supports applications that will be successful. Thank you.

NICOLAS CABALLERO: Thank you, Danko. Any question, any comment, clarifications, any requests for the floor, Gulten? Are we Okay? Avri, go ahead, please.

AVRI DORIA: On the applicant support, and this is almost an appeal out to others. One of the things that came up when we were talking about this question with At-Large was sort of the concerns that when we start to do the pro bono, and the pro bono will try to invoke a pro bono attitude for more than just a local around LA, because we need to make sure that, for example, the legal expertise that is provided in the pro bono or the understanding of the economics and the business models are well suited to national, local environments that wouldn't necessarily be understood by just the biggest of the possible pro bono.

So to make the pro bono work is really going to also involve sort of reaching out to the countries, to the organizations and such, to help it be something that's wider than just us. So figuring out how to come up with a viable pro bono that ICANN can support the motion of, but that the work will be done by volunteers on a global basis. So just sort of saying the pro bono isn't just up to the Board. It isn't just up to sort of the ICANN staff. It's really going to be up to all of us to figure out how we make that work.

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NICOLAS CABALLERO: UK, Roz, Argentina. And sorry to put you on the spot, but you were the ones directly involved in the ... Is that Okay?

ROSALIND KENNYBIRCH: Yes, just I wrote back in the chat. But just to say thanks very much for the really helpful response. I think this demonstrates as me and the colleague from Argentina noted yesterday that work on the applicant support program by no means finishes with the GGP. There are broader questions to consider. And so it's really important that the GAC continues to engage on this issue, including beyond the conclusion of that work. So thanks for clarifying that point again and for the helpful responses.

NICOLAS CABALLERO: Thank you, UK. Any other question? Comments? Any clarification? Argentina, go ahead, please.

MARIA GABRIELA MATTAUSCH: Thank you very much. Thank you, everyone, to involve in this issue and for the answers we received here. Just I wanted to ask if you are having an idea of any successful in this program, for example, a percentage of applicants supported by this program. How are you thinking of success of this program? Thank you very much.

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AVRI DORIA:

It is a really great question. And I don't think we've gotten very far yet. Certainly, it's easy to say better than last time as a measure of success. But in terms of a numeric answer, other than more than one. But it's how do we achieve that? So I think it's a really good point. And I think we should talk about what would be a measure. But I don't believe we've talked about it yet. And I don't believe there was any recommendation on what would be a good metric.

But I think while we're talking about how to do all these things, we should come up with, well, at least a number. I'm not even going to say it because it becomes too real. But it was on the tip of my tongue. But still, to basically be able to come up with a measure, because you're right, we need it. And other than, yeah, better than last time.

NICOLAS CABALLERO:

Thank you very much, Avri. And please let me remind my distinguished GAC colleagues that you can ask any question about anything, any topic, anything you want in any of the six official languages, English, French, Spanish, Chinese, Russian, Arabic, and Portuguese. So please feel free to use our translation services. Gulden, do we have any question?

GULTEN TEPE:

Not at the moment, Nico. Thank you.

NICOLAS CABALLERO:

No? So the floor is still open. Any other question? Any other comment? Anything you would like to add? Any clarification? Are we good to move

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forward? Seeing none, let's move to the last page. I think it's page seven in the presentation. And we have some questions there. Becky, would you like to go over those questions, or you prefer to take some more questions from the ...?

BECKY BURR:

I think I'm the designated hitter on the privacy proxy services, to my chagrin. Thank you for the question on implementation of privacy and proxy services and how we are prioritizing on this. We did receive advice from the GAC and Cancun on this, and we have responded. I believe you've seen the scorecard that says we believe that this must be an important focus.

Internally, Org has been taking very careful look at what options are available for implementation of privacy and proxy. And in particular, whether the registry data request system, RDRS, formerly known as SSAD Light, provides an opportunity for implementation of privacy proxy, and if so, whether any new approaches to the way it's implemented are needed.

So those things are all under discussion. It is a very high priority that the Board has raised to Org, and Org is responding to us with ideas. I think it is safe to say that this won't be addressed in the first launch of the RDRS system, which will be released to registrars, I think, in September, and then released to requesters in November. But it is on the thinking list for how to get it addressed. But I just want to be very clear that this is a priority. It's a personal priority, and it's a Board priority.

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NICOLAS CABALLERO: Thank you very much, Becky. And I'm actually surprised that we're doing so well in terms of timing. So do we have any other question? Any other comment? Any requests for the floor? Gulten, are we okay with the chat room?

GULTEN TEPE: Yeah, thank you. Awesome. Tripti, Sally, Danko, anything you would like to add? Avri, Nigel? Sally, please go ahead.

SALLY COSTERTON: Thank you, Nico. I just wanted to go back to the question of the applicant support program. And I just wanted to let the GAC know, just to build on the comments of my Board colleagues, that in addition to the topics we've been discussing, the organization and the team working on the new gTLD program, I can see Theresa here right at the back nodding her head at me, who's our senior lead on this, are spending significant amounts of time and have already started to do this and will continue to do so on being as creative as possible about looking at a much wider range of options about how we think about applicant support.

So taking on board some of the learnings or all of the learnings from the last round. But, of course, the world has changed and we have all sorts of different options available to us now that perhaps were not easy or achievable 10 years ago when we did this last time.



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And I think as many of you will know, I am, as well as being the interim CEO, I'm also the head of ICANN's stakeholder engagement function. And I have been, the whole time I've been at ICANN, including during this time in the last round. And I feel very strongly and very passionately that we need to get this right.

Now, what does right mean? Avri's point is well made and I'm not going to touch that question because she's right. It's a risky area to put numbers down. But I wanted the GAC to be confident that we are very aligned with the school of making this a priority. And we'll come back to you as we go along as new ideas crystallize. And if anybody would like to give me feedback or any of my regional team members feedback about ideas and thoughts about what would be helpful, please do feel free to do so because I think more ideas rather than less at the moment is where we want to go. Thank you very much for the floor.

NICOLAS CABALLERO: Thank you, Sally. I have Iran. Please go ahead.

KAVOUSS ARASTEH: Good afternoon. Good morning. Thank you very much, distinguished Board member. I raised the point yesterday, but still I wish to raise it. I didn't have the possibility to ask on the applicant support. The term underrepresented or underserved is not quite clear from which aspects are we talking of the countries that could not apply for any string or DNS due to financial problems? And which are these countries, how categorized?

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I mentioned yesterday that the UN has a table developed on this developed country. Do we have any other things on that? So we should have some in future, some clarification on that. Thank you.

NICOLAS CABALLERO: Thank you, Iran. Would you like to take that one? Tripti, go ahead, please.

TRIPTI SINHA: Thank you, Kavouss, for the question. It's a good one. And we need to spend some more time looking into this issue. But it could come from a couple of different perspectives. Geographically underserved. And as you know, the big push in the next round is going to be IDNs as well. So underrepresented from an international perspective and going beyond the English language as well. So you bring up a very good point. We will certainly look into this more deeply. But there are some obvious responses which is geographically underserved as well as bringing in multilingualism. Thank you.

NICOLAS CABALLERO: Thank you, Tripti. I have Lauren from the PSWG. Lauren, please go ahead.

LAUREEN KAPIN: Thank you, Nico. And this question is for Becky regarding the privacy proxy issue. We're encouraged to hear that implementation must be an important focus. I wanted to ask you to expand upon what you meant

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by whether a new approach to the way it's implemented is needed. I'm just curious about what that would entail.

BECKY BARR:

Thanks, Lauren. We are just in the brainstorming mode. What is the best way to implement that program? There are a variety of approaches. I think it's sort of too early for me to get specific about because some of them may not be feasible. But the question is, if we are creative, is there a way to roll out the program efficiently by making small changes in the implementation? But again, we're in early days on that and we will be coming back to you as soon as we have more concrete plans.

LAUREEN KAPIN:

Thanks so much.

NICOLAS CABALLERO:

Thank you, Lauren. Thank you, Becky. Any other question? This gentleman over here. I don't know where you're from, but go ahead.

NOJUS SAAD:

Yeah, thank you. Good morning to the Board and the GAC leaders. This is Nojus Saad from the ICANN 77 Fellowship, for the record. So I am a newcomer to ICANN, and I'm not yet up to date with all the detailed technical conversations that are happening in this panel. But I've noticed that the ICANN Board takes binding to the bylaws very strictly and as its top priority. And even sometimes it can be a barrier to consider many innovative new initiatives that the ICANN community is

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developing and working on. And considering the rapid evolutionary nature of the Internet nowadays, don't you believe that the governance of the Internet should be also up to date with this evolution, especially considering the bylaw flexibility? And also, what are the flexible criteria which the Board bases on to decide when the bylaws can be amended or not? Thank you.

TRIPTI SINHA:

Thank you for the question. So as with any corporation, a corporation has its mission, and the mission is surrounded by bylaws. So it's imperative that we maintain our fidelity to the bylaws.

With that being said, by no means will any kind of progress in technologies that are within our realm be ignored. It will continue to be embraced, but it is imperative that we remain faithful to the bylaws, because that keeps us within mission. Thank you.

BECKY BURR:

And if I could just add, as part of the transition away from the U.S. government's stewardship, the community came together to revise the bylaws. There are very specific steps and procedures laid out for revision of the bylaws. But as Tripti said, we don't feel that the bylaws constrain us from achieving our mission. And fidelity to those bylaws is of critical importance, both to the integrity of the organization and to the community that it serves.

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AVRI DORIA: And if I can add just one more comment. They're constantly changing. We are in the middle of reviewing a change to the bylaws now that have to do with a particular part. So I think whenever we notice that there is a place where the bylaws aren't covering it correctly there is a whole process. There's a whole community review. There's either approval or disapproval processes.

But any time there's a feeling in any of the supporting organizations or the advisory committees or whomever, I think, that a bylaws change is needed, it starts being talked about. And eventually, if it truly is a necessary one and it's something that has the general consensus, then it happens. So they're not fixed. They're not stuck in the mud, as it were. They are a living document taken too seriously, faithfully, but mutable.

NICOLAS CABALLERO: Thank you so much, Avri. Ladies and gentlemen, this basically would take us to the AOB section of our session. So the floor is basically open to everyone for AOB. Do we have any question, any comment? Gulten, are we doing okay with the chat room?

GULTEN TEPE: We are, Nico. Thank you.

NICOLAS CABALLERO: Okay. So the floor is yours. I'm in your hands. We're in your hands. Any question? And I have India. India, go ahead, please.

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INDIA: Thank you, Chair, GAC Chair, and also the ICANN Board members over here. So I would like to mention about the legal cases which we are receiving in the Court of India regarding trademark infringement. So there are about 35 different cases which have come out in the Indian courts. And the court is saying that the registrars have to provide the details of the registrant.

Now, coming to the privacy proxy services which is being initiated by the ICANN Org. As a registrant, the privacy proxy provision has to be optional. One should not trust upon the privacy proxy solution because as a registrant, most of the people doesn't know how to use it. So I would request the ICANN Org that the privacy proxy services should be optional for a registrant. Thank you.

NICOLAS CABALLERO: Thank you, India. Would you like to take that one?

BECKY BARR: So right now, what we're talking about is implementing a community policy that was developed through the bottom-up process on that. If the community wanted to do further policy development work that addressed that issue, that could be done. But I don't believe it is part of the PPSAI policy that we're implementing now.

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NICOLAS CABALLERO: Thank you, Becky. Any other question? Any other comment? Any other remark? Any clarification? The gentleman over there. Sorry, I don't know where you're from. But go ahead.

BRIAN BECKHAM: Thank you. Brian Beckham from WIPO. I know that the Board had taken a decision on the IGO curative recommendations, which was the subject of advice in the Cancun communique. And obviously, we follow that with interest and we're grateful for the positive Board vote. So really, just since we're in AOB, it was to signal our content with that decision and to recall that we stand ready to assist with the implementation and wonder if there might be any update from Board or Org staff on next steps to take that forward. Thank you.

BECKY BARR: Thank you, Brian. I think the next step is related to putting together an implementation team and kicking that off. I don't have an update, and I don't know if Mary Wong or David Olive are in the room. I don't see them, but I will ask them to get back to you with an update on that.

NICOLAS CABALLERO: Thank you, Brian. And sorry, I'm nearsighted. I can't get to see you, but sorry about that. Yeah. And David, David Olive is there. Would you like to speak, David?

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DAVID OLIVE: Mary Wong is here, and I'll turn the mic over to her.

MARY WONG: Thank you, David. Thank you, Chair, and thank you, Brian, for bringing up the topic. As Becky said, indeed, we are in the process of developing an implementation plan. And in that regard, the Org staff are very grateful to WIPO and to a number of the members of the working group for volunteering to help out with that. And we look forward to giving that plan to you as soon as possible after this meeting.

NICOLAS CABALLERO: So thank you again, David. Thank you, Mary. Any other question? Any other comment? And if that is not the case, let me give the floor back to Tripti Sinha, ICANN Board chair. Tripti.

TRIPTI SINHA: Thank you, Nico. And thank you, everyone, for this engagement. As Nigel noted, the back and forth is certainly more constructive, and it helps us move the ball forward at a good pace. These are complex issues that we're navigating, and we welcome your engagement, and we hope we arrive at palatable solutions that are workable and amenable to all communities involved.

And with regard to the comment that Argentina made about KPIs, as this is, as you know, a very complex issue. We're still addressing many questions, but hopefully at some point we'll get our arms around it and we will certainly have key indicators in place to assess progress.



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So with that, thank you very much to everyone, and we engage. We really enjoyed this back and forth conversation.

NICOLAS CABALLERO: Thank you so much, Tripti. Sally, would you like to say anything, or we're good to go?

SALLY COSTERTON: Thank you, Nico. I think we're good to go. Thank you all very much. It was an excellent experience.

NICOLAS CABALLERO: Grazie mille. Merci beaucoup. Gracias. Thank you so much. Obrigado. Reconvene at 10:45.

**[END OF TRANSCRIPTION]**