
ICANN76 | CF – GAC Discussions on Subsequent Rounds of New gTLDs
Sunday, March 12, 2023 – 13:15 to 14:15 CUN

JULIA CHARVOLEN:

Hello and welcome to the ICANN76 GAC session on Subsequent Rounds of New gTLDs on Sunday 12 March at 13:15 local time. Please note that this session is being recorded and is governed by the ICANN expected standards of behavior. During this session, questions or comments submitted in the chat will be read aloud if put in the proper form. If you are remote, please wait until you are called upon and unmute your Zoom microphone.

For those of you in the GAC room, please raise your hand in Zoom and when called upon, unmute your table mic. For the benefit of other participants, please state your name for the record and speak at a reasonable pace. You may access all available features for this session in the Zoom toolbar. With that, I will hand the floor over to the GAC Chair, Manal Ismail. Manal, please.

MANAL ISMAIL:

Thank you very much, Julia, and welcome back, everyone. I hope you enjoyed the break and we will use the coming 75 minutes to discuss the next round of new gTLDs. So we have three main topics to focus on. The operational design phase, the operational design assessment, and the Closed Generics and the GGP, the GNSO guidance process on applicant support. And we have our topic leads, Jorge Cancio, GAC representative of Switzerland. He's joining online and thank you very

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much, Jorge. I'm sure it's not the best time at your end, so thank you for making it.

And we have our second topic lead, Jason, GAC representative of Canada. And we have Gabriela, GAC representative of Argentina, will be speaking to the applicant support program topic. But we also have colleagues from ICANN org. We have Chris and Lars joining from ICANN org to help with the discussion on the operational design assessment. It's a very broad topic and a loaded session. And without any further ado, allow me to hand this over to Jorge. Shall you get us started, please?

JORGE CANCIO:

Sure. Thank you, Manal. I hope you see me and hear me okay. I hope you had a good lunch because this session really requires a lot of energy from your side. 75 minutes, it's difficult to know how well the timing of the session will go. We've been updating the slides and thanks very much to Benedetta, to Chris, to Lars, to the whole team during the last days. Because really subsequent procedures, this means the rules for the next round of generic top-level domains is evolving at a very fast pace. So there's a lot of things happening right now.

And so we have been trying to strike the right balance for today's session between informing you about the latest news, but also having time for discussion. So I hope we arrive at that, we achieve that. And without further ado, I would like to go to the next slide, present you an overview of the most recent developments. And as you will see, we will go into deep dives of most of these issues during the 75 minutes of this session.

So first of all, starting with the collective comment that we as GAC filed in June 2021 for the board to consider regarding the final recommendations prepared by the GNSO on subsequent procedures. After that, as you may recall, the board instructed ICANN org in September 2021 to prepare an operational design phase. And the result of that work is the so-called ODA, the operational design assessment, which was delivered to the ICANN board on December 12, 2022.

So it took more or less one year of work, of discussions also between ICANN org and the GNSO council on the interpretation and how the recommendations of subsequent procedures could be implemented. And the ODA, after all, is a kind of a document that prepares the ground for the board to decide on how it can implement the recommendations coming from the community.

We will see this in more detail because we have here Lars and Chris to present during the next section of today's session. But basically, the ODA has come forward on the one side with two general paths forward or options on how to implement the idea of new rounds of gTLDs. On the one side, there's an option of a single application submission period per round where a big round would be opened and all applications would be handled then subsequently, or opening submission periods and having cyclical application, cyclical checks of the applications.

But as said, Lars and Chris will go into more detail on this. More importantly, and we will also analyze this in more depth, I think the ODA has identified a series of so-called open or not completely resolved or unresolved issues on the policy side in the recommendations prepared by the subsequent procedures working group. And there is an emerging

dialogue between the GNSO Council and the ICANN board on how to address these unresolved issues.

As we've heard or read in the last days in the blog from the ICANN board chair, there's the intention from the ICANN board to vote on most of the recommendations coming from subsequent procedures during this meeting in Cancun, but leaving the unresolved or open issues to future meetings and while those meetings arrive, continue discussing with the GNSO Council, with the community on how to address those issues.

And not surprisingly, I think most of those open and unresolved issues really align with the GAC priority topics we had identified in our collective comment of June 2021 and also in prior comments. And if we go to the next slide, we see which are these topics and some of them are really key to the GAC. For instance, public interest commitments, now called registry voluntary commitments, and how they fit into the mission and the bylaws of ICANN. Closed Generics, to which we will devote one section of today's session that will be led by our new topic co-lead Jason Merritt from Canada.

The third issue is the applicant support program, where there is currently GNSO guidance procedure underway and Gabriela from Argentina will brief us on the latest developments. Also auctions, meaning auctions as a means of resolving competing applications at the end of the process, which led to a lot of controversy in the 2012 round, is another open issue where we as GAC filed comments.

Of course, also the instruments of GAC intervention during the application process, which are basically GAC early warnings and GAC consensus advice are also another open issue, as well as community

applications, name collisions, and predictability or aspects of predictability. So on these issues, as said, it is expected that the board vote will be deferred pending further discussion. And those recommendations, which are the large majority, which might be approved by the board during this meeting, will then move to implementation.

If we go to the next slide, there's a summary of this, which I just explained. So there you see points Roman I, II, III, and IV, what the immediate next steps are. And whenever these steps and also the open unresolved issues are finally addressed and implementation is over, ICANN org would be expected to start a new round of applications. The timing is still to be confirmed. And during this time, of course, we always have the opportunity of filing consensus advice to the board if any of these issues merits being elevated to that category.

But the sooner the better. It's better to intervene whenever the board is still making its mind up than coming whenever the decisions have already been taken. So this is a first general overview. And as time runs very quickly, I'll pass now the floor back to Manal, I think, to introduce our colleagues from ICANN org who are going to give us a deep dive into the ODA. And then we will start also looking into these open and unresolved issues in more detail.

MANAL ISMAIL:

Thank you very much, Jorge. And so now we have Lars and Chris from ICANN org. They will be taking us through the operational design assessment. And please, as Jorge mentioned, please keep it

interactive. And if you have any questions, please, we can take them as we go. So with that, I hand it over to Chris.

CHRIS BARE:

Hello, everyone. Yes, I'm Chris Bare. Can we go to the next slide, please? One more slide, please. And it looks like another one. So we will cover the operational design assessment and talk a little bit about that, go over some of the comparisons between the last round and this round, and then talk about what to expect here in Cancun and after.

Next slide. I think two more, one more. There we go. So the operational design phase, which was approved by the board in September of 2021, kicked off in January of 2022 and ended in December of 2022 last year with the delivery of the operational design assessment. This is a timeline, you've probably seen it before. Along the way, there were times where the org supplied community status updates and report format, as well as interactions and presentations during the ICANN meetings along the way.

Next slide. The primary takeaways from the ODA are that the majority of the inputs are considered implementable and can be put into the new GTLD program. The outputs themselves cover lots of mechanisms to support the diversity, the predictability, and the innovation of the DNS. The ODA itself contained a lot of consideration by the org in addressing the global public interest, and you can see that in the analysis we did of those recommendations.

There were seven topics that had outputs that are in discussion. They need to be resolved before we can put them into implementation, and

you'll hear a little more about that. The implementation of this round is going to be a significant cost in efforts and resources when it comes down to it. One of the things we pointed out here, just as a commentary for people to note, is we expect that more than three dozen vendors will be contracted in the process of doing this, which is pretty much in line with what we did last time as well. It shouldn't be a surprise, but it is one of those things that we like to throw out to give you a sense of scope and size.

Next slide, please. All right. We'll talk a little bit about the comparison between 2012 and the 2021 document here. The first thing to note is the topic one talks about continuing rounds of gTLDs, which there's no change to that. That was reaffirmed. Topic two is predictability. One of the things that was brought up during the PDP was that due to things that were developed after the launch of the program last time, other aspects that were changing, that it made it difficult, it made it not predictable for the applicants to know what was going on along the way.

The introduction of a predictability framework is topic two, is a standing policy implementation review team, IRT, that would act as a go-between to consult between the org and the GNSO if need be. The framework is well documented in the final report, and there is commentary from the org in the ODA. Go to the next one. Go ahead.

LARS HOFFMANN:

Sorry, just before we go to the next slide, because some of you might not have seen these slides or the document, this is essentially a document that we prepared for the GAC. I think we submitted it a few

weeks ago, and I'll correct me. The GAC has asked for this, and so we're just providing an overview of this. There's nothing on these slides that is not also contained in the ODA, but it's a slightly more, let's say consumable format, especially for newcomers. That was the purpose. Thank you. Sorry, Chris. Please go ahead.

MANAL ISMAIL:

Manal speaking. Indeed, Lars. It was requested by the GAC, and thank you for compiling it, and it was circulated to the GAC, so thank you very much. It was very helpful.

CHRIS BARE:

Thank you. We'll go to the next slide, if you would. Topic nine, this is PICS and RVCs, and PICS are public interest commitments, and RVCs are registry voluntary commitments. Just lost that for a moment there. In 2012, it was decided there was a need to have the registries follow certain commitments that were instated.

In 2014, we see that the new gTLD program committee adopted the GAC, Category 1 safeguards around certain strings, and as a result of that, there were four different clauses that were introduced into the registry agreement. They're called PICs, public interest commitments. These are required by all registries to agree to when they sign their registry agreement. There was also something called VPICs, voluntary PICs, that allowed for a registry to volunteer to go beyond that and to actually have additional conditions in which they would operate their registry.

What happened in the subsequent procedures final report is that that use of PICs and those VPICs have now been renamed into RVCs, registry voluntary commitments. That was affirmed as something to keep doing, and actually, those RVCs are a method by which to resolve a lot of other issues and conflicts that were identified along the way. You'll see some examples in here about singular versus plural was one of the issues from last time and it's envisioned in something like the RVCs could help to resolve that.

The other thing, though, that was noted was that during the public comment period of the final report, the board did make some comments about the potential difficulty of the org being able to enforce some of these RVCs. That is one of the open conversations that's going on right now as well. You may have heard it mentioned earlier today in the earlier session we had.

Next slide, please. Applicant support got a lot of attention, of course, as well. If you aren't familiar, I think all of you probably are, the applicant support program allowed for anyone who qualified, who applied and qualified to get a discount, a reduced fee in their application. There's a lot of more information or more expansion of the way this has been viewed.

There was an agreement that application fees should be lower for those that qualify for applicant support. There was also talk about other forms of support in the sense of being able to assist if the ICANN auction comes into play, either as a bid multiplier or some kind of a credit. There was talk of adding attorney fees, application writing, other types of activities that are involved in submitting an application and including

those as well. There's some discussion around that as well that's ongoing.

The other thing to note is the terminology for where this is focused has changed a bit. We now use the term least developed countries. It's not limited to least developed countries. That is what we used last time, but actually goes beyond that. You'll see in here we talk about struggling regions that are further along in the development. You'll see that a lot of the outreach that when it launches later in the year will actually focus on a variety of areas, a lot of regions as well.

There's talk here also of mentioning a funding plan that allows for funding partners to be a part of this. I think that's one of the things that was added. One of the bigger changes too is that in the last round, if you applied for applicant support and you did not pass, you were not allowed to move forward as a regular applicant. There were a variety of reasons why that was done, but that has been changed in the new recommendations as well, saying that someone who does not pass applicant support criteria would still be able to convert to a standard application.

Next slide, please. GAC consensus advice in early warning. This is one obviously that's related heavily to this group. I'm just going to go on the right side here, the changes that we talk about here. There's the idea that if we want to talk about the different categories, and we talked about the GAC category one in protected terms, and there's other categories that were designed, I would say, last time. What we're talking about here is if the GAC wants to introduce other categories as well, those need to be put into the AGB before publication.

There's also the recommendation to remove the strong presumption terminology from the AGB from 2012, so that would be removed in the newer version. The GAC early warning and application comment periods notes that they should go concurrently, and that if one of them needs to have a longer period, that the AGB must define that specific time period. If there is a time period that needs to go beyond what's in there, it needs to be defined in the AGB. A lot of this is designed so that the applicants aren't taken by surprise by things that change after they apply.

Then the last thing is applicants should be allowed to change their applications using those RVCs we mentioned earlier to address any concerns that are brought up in those GAC early warnings or under GAC consensus advice. That was one of the other things as well. Change requests are a big part of being able to address these types of concerns.

Next slide, please. Community applications had a big part of this. If you recall, we had the community priority evaluation process last time, and there was quite a bit of activity around that and a lot of discussion. There's no changes here to the principles behind any of that. There were some concerns about how those CPE, those community priority evaluations, were done last time and how they were scored. Some of that is taken into account as well in the criterion here, and there's a request for that to be discussed.

The other thing to talk about here is the scoring itself. The bar to pass CPE was very high in that this is one of the few evaluations where when you won, you actually kicked out the competition. In most evaluations, when you won, and you stayed in. Because of that, the scoring was 14

out of 16 points, and there's a recommendation to adjust that. That's one of the things that will be discussed during implementation as well. And then another criticism that occurred quite a bit in the last time for CPE was what type of research was done by the panel. It was called independent expert research, but addressing that specific aspect, there is language around that.

Next slide. We have auctions. In 2007, we had ICANN auctions. We called them the auctions of last resort. All applicants that were in contention with each other were given quite a bit of time to be able to address that themselves to come to some kind of a resolution. When that didn't happen, they went to an ICANN auction. This final report did not have any recommendation on this. There was a lot of discussion around it. One of the biggest aspects of it was the discussion around private resolution, which did occur quite a bit in the last round. When you look at the 232 contentions that we had, the majority of those did self-resolve.

There's an aspect here that the applicants will need to sign a bona fide statement that they intend to operate. One of the concerns that was brought up was whether or not the applicants would just apply to get into an auction as opposed to actually operate a TLD on the route. The idea here was to show that they did have that intent. There are now requirements for transparency when it comes to self-resolution that need to be included, that any applicants that do self-resolve need to share certain information in that process. With that, I think we're on to the next session and that's Lars.

LARS HOFFMANN:

Thank you, Chris. Hi, everyone. Thank you for inviting us to speak here. My name is Lars Hoffman. I work with Chris and a number of other colleagues on the SAPRO project. It's always a pleasure to come and speak to you. I give a quick overview of what to expect during this meeting with regard to SAPRO and beyond as well. Obviously, with a focus especially, I hope, on what is of interest to the GAC members. I'm not sure who's running the deck, but the next slide, please.

Next slide, thanks. I think there's one before that. Is that possible? Thank you. On Thursday, the board has this meeting, this upcoming Thursday. At the moment, you may recall this. For those of you who read Tripti's blog that was published, I don't know, I want to say a week or so ago, that the board is expected to accept most of the recommendations that are contained in the final report.

There also will be a number of pending recommendations. That does not mean that the board is rejecting these. It simply means that the board has some concerns around some of these. And further discussion will be required between the board and the GNSO Council around these. The reason that the board will talk to the council first is that the recommendations procedurally were submitted to the board by the council for its consideration.

So the first step for the board there is to go back to the council and ask any question they may have. How then the wider community is involved in that will devolve from there or evolve from there. It is also anticipated that in that resolution on Thursday, the ICANN board will direct ICANN org to launch an implementation review team that is an open community group that is put together in order to assist ICANN org

with the implementation of the recommendations, essentially to ensure, first of all, to answer any questions that ICANN org may have in terms of intent of the recommendations, what do they intend to achieve, and then make sure or assist ICANN org in turning these recommendations into policy language.

And the outcome of that implementation process will be an updated applicant guidebook, which is essentially the rulebook that will explain how the next round of new gTLDs will work. There was one in 2012, an applicant guidebook that's still available online and we will use that as a starting point to produce the updated version based on the outputs of the PDP working group.

The next slide, please. We'll use that as a starting point to produce the updated version based on the outputs of the PDP working group.

The next slide, please. Thank you. I'm going to talk a little bit about implementation. So, for those of you who have studied the operational design assessment is the outcome of the operational design phase, the final report if you want. We'll see that the implementation is essentially four different streams. One is the policy implementation; I just spoke about that is producing the applicant guidebook. The other three are internal implementation procedures, ICANN org will have to make sure that essentially we have an operational program established that can run the program in accordance or in alignment with the policies that are documented in the applicant guidebook.

We also have to make sure that we implement infrastructure to deal with applications, assess them, have vendors in place, etcetera, etcetera, to process these applications for new gTLDs. And also, then

make sure we have the resources to operationalize the whole process. And so we internally have divided that up into three different streams you see that here at the bottom, the green, blue and yellow one.

Next slide please. You saw on the previous slide that we said these streams are interdependent. That is because kind of follows on from the logic that I tried to build on the previous slide. Essentially the policy implementation, the applicant guidebook. Some of the language will be required to at the very least finalize aspects of the program design and the infrastructure development. Then similarly, the operationalization of the whole program will require a fairly finalized program design infrastructure development.

We are pointing that out to explain that once the applicant guidebook is finalized, and it will go out for public comment, it has last time and the board has eventually approved it. That does not mean that the next day the application round or window can open. And for those of you who were around during the last round, they may recall that it was about six months last time between board acceptance of the applicant guidebook, and the opening of the window. And we expect that to be at the very least no quicker this time around. But a more detailed time and less of that is forthcoming. I'm kind of going a little bit off script here, but there will be a detailed implementation plan forthcoming as well as one of the first deliverables of the implementation, and that will provide more details around that timeline.

The next slide please. I'm going to be very quick here, this is just a quick pie chart, the total output of the final report was 301 implementation guidance's. Outputs includes these guidance's includes

recommendations, it includes affirmations and affirmations with modifications, those are the classifications that the PTP working group used, I will say.

Of these outputs, the board will adopt the recommendations and the affirmations and the affirmations with modifications, as far as the latter two pertain to policies. Of those, we expect that 98 will be adopted here in Cancun by the board on Thursday. And then there is about 165 implementation guidance's that, because they're not policies, the board will simply acknowledge them. They do what it says on the tin, they are there to guide the implementation of those recommendations. Help ICANN org in fact implementing them.

And finally, we expect that the 38 recommendations will be marked as pending requiring further discussion between as I said earlier, a board and council in the first instance, and then the wider community depending on what path, the council chooses to take.

The next slide please. Thank you so much. I'm going to go through a couple of these issues now, and I'm conscious of time and I'm probably already behind. I will do this relatively quickly, we can go back to these for a question and answer if that's for you. So I'm going through these topics that on which the board select topics on which the board has essentially voiced some concerns and recommendations contained within these topics are marked as pending, and the board is likely to not resolve on these on Thursday.

The first one is the issue of public interest commitments and registry voluntary commitments. And in terms is always a fun thing picks and RVCs. Those of you familiar will know that there's some concerns

around whether these and under which circumstances, these are enforceable under the bylaws, specifically section 1.1. The board will, or has already started preliminary discussions on all of these in fact with the council that was a call last week. I believe that was recorded. I do not have the link to that but I'm sure that the GAC support will be able to pick that up and provide that to you or to those who are interested.

The next slide please. Here's some input from the GAC also harboring some concerns around the upset on policy recommendation on DNS abuse mitigation, noting that the working group deemed that such future efforts should be holistic, and not just limited to a new gTLDs, and the GAC also notes that any future voluntary or mandatory picks. RVCs used to be called voluntary picks. Sorry. Yes, they were voluntary picks and picks were mandatory picks, way in the future they'll just be RVCs.

MANAL ISMAIL: Sorry, Jorge would like to interject about the GAC priority topics if that's right and so for each topic.

LARS HOFFMANN: I'm so sorry.

MANAL ISMAIL: Turning back to Jorge.

LARS HOFFMANN: I apologize. Jorge, please read from the record what I said. Over to Jorge.

JORGE CANCIO: Thank you so much, Lars. I'm seeing that we are a bit late in the timing, it's a challenge but I think that you just summarized this very well. Regarding the GAC input from 2021, this is the kind of a reminder that on each of these issues, we already voiced an opinion to the board, and on peaks voluntary and mandatory we highlighted their importance, and that they have to be enforceable, and they have to be clear consequences if the obligations are not met by the contracted parties. And if that's Lars, you can for each issue, you can quickly present the issue and the board's position if any, and then give me the floor for the GAC part, if that's okay.

LARS HOFFMANN: That's perfect. Thank you. I appreciate that, and I apologize. The next slide please with that. Thank you, applicant support. Essentially, there's a recommendation that says ICANN should pay fees to those deserving for legal advice and for writers. The board essentially has a concern around open ended payments here.

There is no concern by the board to potentially extend the ways that those that deserve applicant support can receive report whether that's pro bono work or other financial means. However, direct payments in what appears to be a fairly open-ended measures has raised some fiduciary concerns with the board and so this is marked as pending for now. Jorge if you want to add on the GAC concerns.

JORGE CANCIO:

Great. Thank you. Very quickly, this was and is one of the issues of great attention for the GAC because the diversity of applications in the 2012 round was very, very limited, and the then existing applicant support program didn't really work. So we made some inputs on this. We made some changes from all regions, and one of the possibilities we mentioned that were not included in the subsequent procedures recommendations was to reduce or eliminate ongoing ICANN registry fees to expand financial support.

This wouldn't, for instance, mean that fees from third parties should be paid for, so this can be a possibility. And that can be discussed with the board and with the rest of the community. And these are things also that at the preparation level are discussed in the GNSO guidance process, where we will hear later from Gabriela. So back to you Lars.

LARS HOFFMANN:

Thank you. The next slide please. Thank you, Jolene. Closed Generics. So, on Closed Generics the PDP Working Group did not produce any recommendations, hence there is no recommendations in the final report, nor before the board. However, for those of you who were around during the last round, it was a difficult topic I'm going to say. The board, already back in, I don't have the date exactly but I want to say 2013-14 asked the council to produce policy on this matter for the next round.

As I just said, unfortunately that was not possible. The board has asked the GAC, who has issued advice on the matter in 2013, I believe in

Beijing, and the GNSO council to conduct a dialogue. Both groups decided to invite the ALAC to participate in the dialogue to develop a framework around Closed Generics that would be acceptable to all groups. If that dialogue is successful, then that would require a subsequent policy development process to kind of turn that into policy which then in turn would feed into the applicant guidebook. Jorge, I'm sure you want to talk quickly about that process, the GAC is obviously involved in that. Back to you.

JORGE CANCIO:

Exactly, thanks so much. Jason Merritt will in a minute go into a more depth about this facilitated dialogue. Our guiding star, of course, for the GAC members there and for many others in the dialogue I think is still the Beijing advice that such Closed Generics should serve a public interest goal, but of course the devil is in the details and it's still very difficult to work this out, but later on Jason will lead us through this issue. So back to you, Lars, thank you.

LARS HOFFMANN:

Thank you, Jorge. The next slide please. Thank you so much. GAC advice early warning is a topic in the final report, the working group produced some recommendations on this and the council approved those and they were before the board now as all the others listed here. The board itself doesn't really have any strong concerns about the language.

However, the GAC and Jorge will speak to that in a moment I'm sure did voice some concerns around some of the recommendations. And so the

board would like to engage in a discussion with the GAC, they have already expressed that to the council in their communication or discussion last week that I referenced earlier. And so I think this will become a topic of conversation between GAC and council and the board going forward. And what those concerns of the GAC are that Jorge can provide you the details on. Over to you.

JORGE CANCIO:

Sure. Thank you so much. If we go to the next slide, we see a summary of the GAC positions of June 2021 but if you want to know the details, please look into the collective comment we filed them. Basically, there's one aspect where there was a GAC consensus, we may say that we didn't support the recommendations that tried to limit the timing, when GAC consensus advice on future categories of TLDs could be filed, because the recommendations speak about submitting such advice, not after the finalization and publication of the next AGB, and there, we wanted to keep some flexibility.

And then there's another aspect, coming from the 2012 round, where there was a strong presumption, according to the applicant guidebook that when GAC consensus advice was against an application that application should not proceed.

So this strong presumption language was hotly discussed in the subsequent procedures working group, and the majority of the consensus there was to eliminate it. And in the GAC, there has been an ongoing discussion on this. There are some GAC members who believe that that language should be maintained, but other GAC members who think that with the present bylaws, this language does not need to be

maintained in the applicant guidebook. So this is also an open issue within the GAC itself. But looking forward to having this discussion with the board and with the GNSO on this matter. So back to you, Lars.

LARS HOFFMANN:

Thank you so much. The next slide, please. Community applications. This is a topic concerning communities who would like to operate a community TLD. And it was something that happened in the last round as well. There were recommendations around this to improve that program for the next round. The board is essentially concerned with a small matter in this, not at all anything that touches the principle of this program. But there's a recommendation and you see that here. It's not the full text, that parts of the contract between ICANN org and any providers who would assess applicants on whether they would qualify for the community application process, that those terms of those contracts are published for public comment.

And the way it is written, the board has essentially concerns that it could be interpreted in a way that that would include proprietary information that is not suitable for public comment. The working group I believe the intent was really, and I'm sure Jeff sits in the room will correct me, the intent was, I think to make sure that the criteria that the evaluators are using to make that assessment, that those are put out for public comment. And there's no concerns around that. So I think it's just a small issue of clarifying that language to make sure the intent is clear to everyone. That's all from me here. Jorge, back to you on that.

JORGE CANCIO: Very quickly. Basically, the GAC comments went into the direction of facilitating or making life easier for community-based applications. The details, you can find them in the June 2021 input from the GAC. After we talk about auctions, I think that if that's okay for you Lars, we could open the floor for some minutes to seek reactions from the GAC.

LARS HOFFMANN: Absolutely. So I stopped before the dependencies, Jorge, I just did the auctions. The next slide please. So auctions is also just a very technical issue. There was a couple of recommendations in the final report, notably on the method of ICANN's auctions of last resort. So essentially, the mechanism by which two applicants who applied for the same string would use an auction process to decide who gets to operate the string. And the other recommendation pertained to the private resolution of contention sets, including private auctions.

Neither of those recommendations received consensus approval by the PDP Working Group. They were categorized as strong support but significant opposition in accordance with the PDP manual, and which meant that the GNSO Council did not accept those recommendations, and therefore they are not before the board, even though they're in the final report.

Which means that there is no recommendations on private auctions in the final report, and there were also no recommendations on private auctions in the 2012 report. Private auctions did occur, but it was a result of the way that the program was implemented, not a result of a policy issued by the GNSO. And with that in mind, there were some -- I'm going just around the block for just a moment.

There were some concerns within the community and they were discussed also in the PDP Working Group, I think they were probably part of the reason why agreement wasn't reached. Some community members believed there were some concerns around that principle during the last round, I will go into the details or merits of that argument but I think we all agree that argument did exist. And so, with no policy being before the board or no policy recommendations before the board, some of the recommendation in this topic area 35 on auctions still contain references to private auctions.

And so the board's essentially the concern is that if there's references to private auctions in there. However, the Working Group explicitly did not reach consensus on the merit of having private auctions, the reference to private auction and these other recommendations should probably be omitted. So it's not about the substance or the intent of the recommendations per se is the reference within them to private auctions. I hope that makes sense. That's why this recommendation is pending. And with that, I believe, Jorge up to you and the floor is open.

JORGE CANCIO:

Just very, very briefly on auctions. The GAC input went beyond the recommendations, and we recommended or we suggested that there should be more measures to reduce potential gaming, and that such instruments should not be used in contentions between commercial and non-commercial applications, and that private auctions should be strongly disincentivized, but we know that there was no consensus in the SubPro Working Group, but we think that our position aligns very well with other positions in the community, for instance with that from

ALAC. So, with this, I don't know, perhaps, I don't know, somebody in the room can shortly seek reactions, we can devote perhaps five minutes to that, but then we have to go on with the rest of the presentation.

MANAL ISMAIL: Jorge, there is one more minute presentation by Lars and then I'll seek comments from the floor if okay with you. Is this okay?

JORGE CANCIO: Yes, if it can be very, very brief because we have to move on to Closed Generics then.

MANAL ISMAIL: Sure, sure. Thank you. Over to you Lars.

LARS HOFFMANN: I'll be very, very quick. The next slide please. So there's some other dependencies essentially they need to be met before the open round, before the next round can open. These are the ongoing processes in the community. Obviously, the pending recommendations that we just talked about.

And then there's some advice that is outstanding and then to be addressed by the board. I hasten to add that none of these dependencies affect the board approval of the final reports this week, most of these dependencies need to be resolved by the time that the

application window opens, which is obviously after the AGB is published, and then ICANN has operationalized the entire process.

So I'm just going to quickly give you the topics here this is applicant support the GNSO or has a GNSO guidance process around this. That is ongoing that needs to finalize to feed into policy application, Closed Generics you're going to talk about that that process needs to be -- the dialogue needs to be finalized and potential policy work as well.

The next slide please. The next slide. We jumped over one, it doesn't matter. Here's the advice that's outstanding, the ALAC given advice on DNS abuse and on SubPro. The SSAC similarly is given advice around SubPro. And there's also some specific review recommendations that will have to be implemented before the next round can open. And as we said, we're working on this and are aware that these have to be resolved before applications can be submitted and accepted by ICANN org. And with that, I promise I'll step back from the microphone. Thank you so much for the extra minute.

MANAL ISMAIL:

Thank you very much, Lars. So, I'm opening the floor for any questions or comments. Kavouss please, Iran go ahead.

KAVOUSS ARASTEH:

Yes, first of all, thank you very much for the presentation. It's too heavy. Too heavy material to digest, very heavy material to digest. At least I can admit, maybe other much better than me. In 2012, when decided to have the new round or subsequent round. There were some

problems, which has been identified and intention was to have a new round to resolve that problem. Did we really resolve those problems, or we add more problems than what you had before? This is a question to be answered.

Second, applicant guidebook is the guidebook, that's all. You cannot compare that with the bylaw which is some sort of, I would say, convention and constitution. So there should be a clear resolution from the board, indicating that in case of discrepancy for any element in the African guidebook, and the bylaw, the provision of bylaw prevails.

This is very important to say because bylaw, we spent considerable amount of time, and I proved that once or there would not be the same status as this one. I have not seen any element, indicating that the new round or subsequent round is totally inclusive and non-discriminative. And there should be some sort of the guarantee that this is inclusive and non-discriminative and equitable access of the DNS resources for everybody.

If you take auction, it's against this equitable access. Because it gives favor to those either directly to the auction or to the private. That means the one who has more money, you have more opportunity. So, in fact, the purpose of auction should be the last, last, last course of action, and should be on the totally case by case, but not as a general case.

So there is a lot of things yet to be resolved, and I don't know whether the options that we take, option one or option two, big round or seasonal round or annual or whatever, whether it should be a definitive decision or there should be some trial operation. That if it doesn't work,

we can go back to the other options, because all of them are totally theory, and we don't know really whether it works or not works. So these are the things that we need.

So that all contribute to the decision on the date of implementation should be selected with all cautious and all attention in order to resolve any issues that is still yet to be resolved. Today, this morning, it was mentioned that the GNSO will dissolve some of these, but the recommendation is not the GNSO, recommendation is the community recommendation concluded by GNSO, so anything's from GNSO need to be visited reviewed by the community, and not taken as such. Thank you.

MANAL ISMAIL:

Thank you very much, Kavouss. I have Brazil and then UK, if we can keep it brief so that we can move on to the following topics. Thank you.

LUCIANO MAZZA:

Thank you, Manal. Luciano from Brazil. And just quickly, I think Kavouss is right. I mean the complexity and the amount of information is daunting. And I think it's comforting to understand that well you're trying to move forward, but in understanding that essentially preparatory work in the sense that it would be impossible to open the application consideration before all those pending issues are resolved, as far as I could understand. I just want to point. So I think what's important looking forward also would be to perhaps have kind of roadmap to discuss in more detail each one of those specific issues.

Because I think it's clear that's impossible in a session of 75 minutes or whatever to cover all this in detail that is required.

So I think it's time for us to organize. I just wanted to understand better and to draw attention to topic 32, this limited challenge appeal mechanism. Because it seems to me as well that's something that has to do with our work in the GAC, in particular because one of the possible topics for evaluation challenges would be geographic names that an issue that's I think of particular concern to many of our countries. Thank you.

MANAL ISMAIL:

Thank you very much, Brazil. And UK, please go ahead.

NIGEL HICKSON:

Yes, thank you very much, Manal. Nigel Hickson, UK. Really to agree with our esteemed colleagues from Iran and Brazil. I mean this has been the most interesting session. Thanks so much, Lars, for your slides. Thanks, Jorge, for reminding us all of the GAC input on this process. And clearly, we need another hour and a half. I'm not suggesting we do it tonight or first thing tomorrow, but these are serious issues. And as I said this morning in the community session, the GAC will need to look at each of these issues. And the issue is what the process will be for that. And prior to Washington, or after Washington, or at Washington. And I think these are serious considerations that we need to pay attention to. But thanks for the session.

MANAL ISMAIL: Thank you very much, Nigel. And for the sake of time, I think we need to move on with the following parts of the presentation. So Jason, would you like to start with the Closed Generics?

JASON MERRITT: Thanks very much. We can get these slides up there. But just to introduce myself, my name is Jason Merritt. I'm the GAC representative from Canada. It's a pleasure to be here today to speak to you on Closed Generics. I'm going to try to breeze through this for the sake of time, but open a window into what's been going on in Closed Generics for the last couple of months, give you guys a view of what's been going on, and give you something to chew on and think about the process. So I don't see the slides up there, but that's okay. There we go.

So let me take you back in time 10 years ago, 11 years ago, there was this round of gTLD releases. Closed Generics came up as a controversial and very difficult subject. Those of you in the GAC that were there at that time are well aware of that. And those of you that weren't there, I'm sure are well aware of some of the challenges. And then you have the Beijing advice in 2013 from the GAC that has been the gospel on this issue, really focusing on this public interest goal that has to be served when talking about exclusive registry access.

And that's been the foundation of where we've started these discussions. And I think that that's well acknowledged from all participants within this facilitated dialogue. Something that is unique and very innovative, I think, from ICANN to bring together people from the various communities and really do some real tangible multi-

stakeholder work on a difficult issue. And try to hammer out some frameworks and guidelines and things like that around Closed Generics.

And you can see the participants there from the GAC. We've met a few times, many, many times virtually, twice in person, once in DC and once here in Cancun. And the discussions are ongoing. And they are moving well. It's not an easy subject. But there's common ground being found. And I think that things are progressing.

So we can go to the next slide. So you will all have in your inboxes at some point three documents that have come out as part of this summary documents, very high level, that talks about some of the work, the progression of the work. This group has undertaken a Chatham House rule type of guiding principles. And that's really just so that people can come to an environment and talk about the issue in a very frank matter of fact, give your opinions, your views, and really try to work through some of these issues.

And it's designed that way to make it comfortable for those involved to be able to do that. And I think that that's been sort of a cornerstone of how this has been able to move forward as long as it has. So organically, what has happened is we've started talking about the evolution of a post generic in terms of the application process, application, evaluation, contracting, post delegation, sort of the natural sort of flow of how you would handle an application.

You can go to the next slide. So in the application phase, there are a number of areas of convergence, I would call them, actually through all the phases, where we've been able to sort of sketch out some high level framework criteria. In the application phase, some of these things

include things like the process needs to be clear, transparent. Those that are interested in this need to know what they're doing, like how to apply for this, what they're going to be required, what's required of them.

The public interest is something that has to be articulated very clearly and very, very well in the application. That's something that is a cornerstone of all of this. We're talking about that in the context of the global public interest framework, but also beyond that a little bit to make sure that we're not limiting ourselves to something too narrow. We want the broadest public interest possible, I think, to serve as the greatest number in this. And I think that there's a recognition that there could be public interest from something that seems very, very vast and something that seems very, very small, but could still serve a public interest. And so we're working through some of these discussions.

Next slide, please. Some of the other things in application that we're looking at is we need to show that there's a benefit to -- it all ties into the public interest. There needs to be a benefit beyond the applicants itself. There has to be something demonstrated there. And there needs to be some sort of commitment to show that they will continue to serve that relevant public interest throughout the duration of the lifecycle of that gTLD.

Next slide, please. And then, of course, you move into an evaluation phase where that's where an application comes through. We're talking about some type of panel of evaluators looking at the criteria that is set out. The applications will come in. There's a lot of things here. For example, we're not talking about prioritizing these applications as a

special application. They sort of just roll with it like they do. But they are treated differently in terms of how they're evaluated. And really, it's really just to ensure that whatever they're being measured against is clear and predictable for the applicant and how it's evaluated. And so that criteria is an ongoing discussion as part of the framework.

We can go to the next slide. So I think I alluded to this a little bit. Objective, measurable, enforceable, some of the key components. It has to be predictable. You can't evaluate something against something that's very ambiguous. It has to be clear. And so we're trying to work through some of those details and to ensure that a panel is there of experts that can guide this process through and really kind of give a proper evaluation to these Closed Generics, should they be allowed in the next round.

Next slide. And then, of course, contracting, post-delegation. So we're talking about things here around what kind of obligations are there after the fact. Is the operator operating this closed generic in the manner that was intended? So there needs to be some type of oversight, some type of enforceability to ensure that if we're going to delegate something like this, that the integrity remains and that it continues to be handled in the way that it was designed to do. And so we're looking at things like self-declaration, self-certifications, random reviews, and then ensuring that there's a compliance mechanism to handle any outline issues.

Next slide, please. So that gets to the point of enforceability. So that's one issue where the group has sort of converged on as well is there needs to be assurances and some sort of comfort level that ICANN is

able to enforce any of this, able to enforce the criteria as laid out if a closed gTLD was awarded.

So next slide, please. So I think this is sort of the important, well, it's all important, but I think this is something to leave you with here is that the process, the next steps. So we're working through this framework. The intention is to have a framework to go out to the communities for comment in advance of ICANN77. And really, in my mind, something that I'd like to convey is there's sort of a unique opportunity here for the GAC to sort of weigh in, in terms of their comfort levels, their support levels, what they feel about this process throughout. And that sort of starts right now because your input now can help shape potentially what that framework comes out as.

And then the next sort of checkpoint is once you see the framework to have a reaction, to take it back, to think about it, and provide comments on there as well. I think that would be very, very helpful to have the GAC engaged on this. And so we're in a period of time where there's an opportunity to help shape the discussions going forward. And I think that's something we should take advantage of.

So next slide, please. So the way I see this is the board will get something at the end of this. They will get a framework. Hopefully, there's been a lot of community input involved that helped shape that framework. And they will be aware of all of the comments and everything around the issue. And then they'll have to take a decision as to whether or not to allow Closed Generics or not in the next round. Should they take that decision to allow them, then we're into the regular PDP process. So nothing's lost at that point.

The outcomes of this facilitated dialogue are not binding on the GAC. They're not representative of the GAC views. They're more of a good faith, multi-stakeholder discussion to try to work through some of the issues. And should the board decide that, then we go through the regular PDP process and hopefully wrap it up before the next round, I think would be the intention. And if the framework that comes out or if something comes out of this is less than desirable, then the board will have to weigh that in, in their decision making as well.

So we go to the next slide. All right, I'm sorry to breeze through all that, but I think I just wanted to give you a sense of where we've been at since November of last year and how things have been progressing. And happy to take questions or provide any feedback here or offline or anything like that. So thanks very much.

MANAL ISMAIL:

Thank you very much, Jason. And I cannot stress more the importance of the summary report than the fact that we have the importance of the summary reports. We circulate on the GAC mailing list so that by the time this process finishes, we're all on the same page. I have a patient hand up from the US. We need five minutes more to go through the applicant support program. So please bear with us if we go a few minutes over. And please, US, keep it brief if you may, please.

U.S.:

Thank you kindly, Manal. Just on the subject of Closed Generics, the United States appreciates the dedicated and steady engagement of our GAC colleagues in this working group. As our colleague from Canada

explained 10 years ago, the GAC advised ICANN board that for strings representing generic terms, exclusive registry access should serve a public interest goal. The question of how to apply that in practice is quite a challenging one.

As explained earlier, ICANN org produced a framing paper for this working group. That framing paper excluded from consideration two policy options for Closed Generics in the next round. The first option that was excluded was that the allowance of Closed Generics without restrictions or limitations. The other one was the complete opposite, that a full prohibition of Closed Generics under any circumstance.

So the United States looks forward to receiving the final output of this working group. And it will inform full GAC discussion on the topic of Closed Generics. However, for the purpose of clarity, I think it's important that, as you've mentioned, Jason, the output cannot bind the GAC. And so the United States or any other government within the GAC at ICANN should be able to express support, for example, for any of the policy options that were excluded from the framing paper. Thank you.

MANAL ISMAIL:

Thank you very much, U.S. Can we give Gabriela five minutes to go through the applicant support and then see if we can continue with the queue? Because I see European Commission, France, and Iran. So if okay with everyone, just to make sure that Gabriela takes the chance to go through the applicant support. Please, Gabriela, go ahead. Sorry to squeeze you in time.

GABRIELA MATTAUSCH: Thank you, Manal. I'm going to speak in Spanish. And so we have the slides in English. Good afternoon, I'm Gabriela. I'm the representative of Argentina before the GAC. I wanted to make a brief summary of what we're working in the GGP working group of the GNSO, which is a GNSO guidance process for the implementation of the applicant support program.

This program from 2012 had the purpose of providing technical and financial support. And we were instructed six specific tasks. I will be very brief. These tasks were, but first of all, the members of GAC, Argentina, United Kingdom and the Universal Postal Union as observer. Some introduction was made in the capacity building program of this effort. Is this the right slide? Yes, it is.

So the specific group tasks are reviewing the existing historical information, not only referring to final policy reports and the operational phase, but also the documents from 2011 of the applicant support program coming from the previous round effort. Then we had the task of identifying subject matter experts with knowledge on the previous round and on the development. Regarding tasks three, four and five, we are currently working on the development of data and specific metrics of the program success, which task is not yet over.

And task six is to develop a methodology for the allocation of financial resources when the financial support is not enough for the applicants. Once we conclude these tasks, the tasks number one to six, a report will be produced and submitted for public comment. The intention is to submit this by mid-year because the work group was created for a one-year period. It started November last year and it is expected to end by

December. After public comment, the working group will consolidate a document that will be submitted to the consideration of the GNSO Council, and then it will go to the board.

Tomorrow we will have another meeting. We will be working there on the tasks assigned. And finally, next slide please, I wanted to refer to what Jorge has already alluded, which are the GAC comments in June 2021 on the applicant support process, specifically the scope, not only for low-income economies as classified by the United Nations, but also intermediate economies. And underrepresented regions or underserved regions is another topic that should also be included in the scope.

The GAC also expressed that fees should be removed from registration and expand the financial support in the program. And finally, provide clarity to the objective so that it can be evaluated as appropriate and at least 18 months before the launch to enable that in case the applicant does not qualify, the applicant could go through the standard window. That is all, thank you very much.

MANAL ISMAIL:

Thank you very much, Gabriela, for this very informative update. Much appreciated. I quickly have the European Commission, France, and then Iran. Thank you very much for your patience. Please, please, keep it brief. European Commission, please go ahead.

UNKNOWN SPEAKER: Thank you very much, Manal. Just very briefly on both topics. Regarding the issue of application support, this is fundamental to reach a situation where ICANN and its structure are capable of showing their real will to include, to absorb the interests of underserved or underrepresented regions. Very, very important to us. And we will follow on this work in detail. Generics topic, just to be brief, I would really like to strongly agree with the position of the United States.

Beyond the procedural issues, I think that we should really give the opportunity to the GAC to consider the initial options, in particular, the full prohibition of Closed Generics, given the relevance, given the many issues related to Closed Generics, we are very concerned. There are many reputational issues around Closed Generics that need to be carefully considered by the Board and by the GAC before moving forward on any positive signal in that direction. Thank you very much.

MANAL ISMAIL: Thank you very much, European Commission. France, please, if you can keep it brief.

UNKNOWN SPEAKER: [Foreign language – 01:22:19].

MANAL ISMAIL: Thank you, France. And finally, I have Iran, and please, as brief as possible. Thank you.

KAVOUSS ARASTEH:

Yes, I'll try, Manal. I think we need to be careful about the Closed Generics. There is a nuance between something which is public, on the other hand, is closed. There are contradictions. I would like to thank the group of 12, but I just mentioned two or three small points. It mentioned that the group determined that it is possible that the closed generic gTLD to serve as a public interest and goes beyond ICANN mission. Please be careful. ICANN mission, we discuss hours and hours and hours, that few lines, and I don't know when we say going beyond the mission, how far beyond the mission, to what scope beyond the mission, and so on and so forth. So this is another point.

Then, the result would be a commitment with the objectives. What is the criteria? You see, whether it's objective or not objective. Measurable, what are your criteria to measure that? And then enforceable, what are the issues that you could enforce that? There are many, many important points. And then some part of that referred to the panel for evaluation. Which panel? Who would be a member of the panel? How to evaluate? What are the criteria evaluation? I think there is a lot of questions in this closed generic. Thank you very much.

MANAL ISMAIL:

Thank you very much, Kavouss. And thanks to Jorge, Jason, Gabriela, Lars, and Chris. Thank you, everyone. And apologies for going over time and sincere apologies to our interpreters. If we can be back, please, at the hour in the room for our prep session to the bilaterals. Thank you.

[END OF TRANSCRIPTION]