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ICANN77 | PF – GAC Communique Drafting (2 of 5)  
Wednesday, June 14 2023 – 15:30 to 17:00 DCA

GULTEN TEPE: Nico, we are ready to start whenever you are.

NICOLAS CABALLERO: A question for the translators. Is the speed okay? Am I reading too fast? Should I go slower? Slower. Okay. I'll do my best. Sorry about that. So, thank you. Welcome back. Please take your seats. We're about to start. And so, we're going to do some cleaning of the text on topic 3, Applicant Support in New gTLD Applications. And in order to make sure that everybody is okay with the wording. So, I'll read again and then feel free to stop me whenever you think is necessary.

So, the GAC advises the Board: (i). To take steps to substantially reduce or eliminate the application fees and ongoing ICANN registry fees to expand financial support for applicants from under represented or underserved regions.

And I'll pause there in order to see if there's any problem, any edits, any comments you would like to make. Seeing none, I'll read-- Yeah. Fabien, go ahead.

FABIEN BETREMIEUX: So, I'd like to suggest that we clean the text once each subsection is right and not objected.

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NICOLAS CABALLERO: Very good point. Yeah.

FABIEN BETREMIEUX: But I'll mention just for the first one that we still have a comment from Argentina. So, we'll clean the text, keep the comment to which we might need to go back potentially eventually.

NICOLAS CABALLERO: So, before we do that, let me check. Is Argentina in the room or online? That's not the case. So, let's do just that, Fabien. Clean the wording so that we can go on. Okay. So, everybody's okay with the first paragraph as far as I understand. So, let me read the second one.

(ii), 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.

And I have Iran in the Zoom room. Go ahead, Iran, please.

KAVOUSS ARASTEH: Thank you, Chairman. Indeed. In the number 1, I think when Fabien corrected, the word "or" was missed. "Underrepresented or underserved".

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NICOLAS CABALLERO: Good point. Good point. Thank you so much, Iran. Thank you very much. Are we okay with the second paragraph? Is everything alright? Anything you would like to change there? Okay. So, let's do the cleaning then in the second paragraph, Fabien. Perfect. Let me read the small letters (iii). To take steps to ensure significant global diversification in the New gTLD Program by increasing engagement with 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; and exploring the potential to support the provision of back-end services. Is that okay? Any comment? Any edits?

GULTEN TEPE: Nico?

NICOLAS CABALLERO: Yes?

GULTEN TEPE: This is Gulden speaking. Just would like to address a comment we received in the chatbot from Joaquin Murray, Jamaica delegation. Noting in light of the comments from Iran before the break regarding (iii). A possible amendment could be "enable" or "facilitate" instead of "ensure". Thank you, Joaquin. And we have Kavouss Arasteh from Iran delegation and then Rosalind KennyBirch from UK delegation in the queue. Thank you.

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NICOLAS CABALLERO: Okay. So, thank you very much, Jamaica. I have Iran next. Go ahead, please.

KAVOUSS ARASTEH: Thank you, sir. I think any of the three words may not match what you want to say, to enable significant global diversification. You want that to enable the diversification, you want to facilitate the diversification, or you want to take into account the significant global diversification and do something. So out of the three words, we have to be very careful what we're writing. Thank you.

NICOLAS CABALLERO: Thank you, Iran. UK, Rose, go ahead, please.

ROSALIND KENNYBIRCH: Thank you, Chair. Just to look at the initial language of ensure, I think this is a word that is quite important. Because as we discussed throughout this week, and as GAC colleagues have talked about, we need an improvement in the Applicant Support Program. There was only one successful application last time, so we need to ensure it is improved, not just enable or facilitate the improvement, but ensure. So, certainly appreciate the suggestions in this regard, but I think we need to look at how we can ensure the best program possible. Thank you.

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NICOLAS CABALLERO: Thank you very much, United Kingdom. So, should we go back as the UK suggested to the word "ensure"? And I see some nodding in the room. Would everyone be okay with that, with the wording? And I see more nodding. So, I have the CTU and Nigel Cassimire. Please go ahead.

NIGEL CASSIMIRE: Thank you, Nico. Yes, I support "ensure". And I also want to propose what I think is an omission. So additional text, which I think we are omitting. In same (iii), the steps that we've bulleted there. We have three bullets. But we have nothing related to funding of the Applicant Support Program. So, I would suggest a fourth bullet which would read providing adequate funding for the Applicant Support Program consistent with diversification targets. Thank you.

NICOLAS CABALLERO: Thank you, CTU. So, can you scroll down a little bit please, Benedetta? There we go. So, your text would read providing adequate funding for the Applicant Support Program consistent with diversification targets. Would that be okay? Okay. I have Jamaica next. Jamaica, go ahead, please.

JOAQUIN MURRAY: Hi. Thank you everyone. I believe the comment was previously made by Nigel before the break. Even if all of these things are done, can we ensure global diversification? Can we ensure that applications will be received? And I believe that's why there was some caution or there

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might have been some recommendation that we reconsider the word "ensure". Because I don't know that we can ensure significant global diversification by these activities. The activities can be cared out, but there could also be no applications received. So, the most that the organization can be expected to do is to facilitate or enable the diversification by the various means that are listed.

NICOLAS CABALLERO:

Thank you, Jamaica. Again, we can change anything you want. You know I'm in your hands, so it's up to you. This was suggested by the United Kingdom to use the word ensure. Jamaica would like to use enable or facilitate. There's a difference, but again, it's up to you. So, there's apparently support for the UK's proposal. And I have Egypt next and then Australia. Egypt, go ahead please.

MANAL ISMAIL:

Thank you, Mr. Chair. I would like to actually support what Jamaica just said. Even if we do all that, are we sure we will be able to ensure global diversification? We don't know. But we can facilitate, we can enable and hope for global diversification to be.

NICOLAS CABALLERO:

Thank you, Egypt. If I may jump in. My humble opinion is that we are not the ones who are facilitating. We are advising the Board to make sure they will--

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MANAL ISMAIL: No. No. No. Absolutely. I was just saying metaphorically that it is not possible to ask for someone to ensure the diversification. We could just ask for enabling that or doing something to enable. So, I support Jamaica's comments. Thank you.

NICOLAS CABALLERO: Thank you very much, Egypt. And I have Australia. Go ahead please.

IAN SHELDON: Thank you. Ian Sheldon from Australia. I wonder if we might be able to - I mean, I take the points that we cannot guarantee the outcome of this effort, but we can potentially provide a little bit more strength around ensuring increased engagement, that is within ICANN's power. Would it be worth bolstering some of that language, strengthening a little if we're a little bit hesitant about strengthening the outcome? We can strengthen the expected next steps and the actions we can take within our control. I defer to the UK and our previous interventions on this one as well. Thanks.

NICOLAS CABALLERO: Thank you very much, Australia. So, what would the wording be in that case?

IAN SHELDON: We could put by ensuring increased engagement.

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NICOLAS CABALLERO: Okay. So, let me read it again and then we'll do the cleaning. So, (iii), To take steps-- Oh, and I got lost here. I don't know if it's to ensure? To facilitate. Okay. To take steps to facilitate significant global diversification in the New gTLD Program by ensuring increased engagement with people and organizations in underrepresented or underserved markets and regions, including-- There should be a comma there, I guess, right? Regions, right after regions. But anyways. 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.

Does it sound reasonable? Do we agree? Are we okay? And I see some nodding. Anybody against? Nobody in the Zoom room, so we're good. Let's clean it up. Okay. So please scroll down a little bit. I'll read the rationale. Are we okay with the rationale? Do I need to read it again or we should move forward? Again, I'm in your hands. Just in case I'll read it again. Right? So, the rationale says the GAC reaffirms the importance of increasing the number and geographical distribution of applications from underrepresented regions in future rounds of New gTLDs through the Applicant Support Program. The GAC reiterates its support for proposals to reduce or eliminate ongoing ICANN register fees to expand financial support in order to sufficiently cover all applications. France, please go ahead.

JONAS ROULE: Thank you. Perhaps we should also add--



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NICOLAS CABALLERO: Thank you, France. Any other comment? Any other edit? Are we okay to move on? Nothing in the chat room, so let's move on. Topic number 4. And I have Brazil. Brazil, go ahead please, Luciano.

LUCIANO MAZZA: Nico, thank you. Just a previous comment, I think, in line with what other colleagues mentioned before other topics. In particular regarding this one, I don't know if it was warranted a discussion. In order to assess if we should or not have an advice at this point, bear in mind the discussions we had previously with the Board. And it's more a matter of being pragmatic and see what's the best way to achieve the results you want. I think it's an important topic. We heard that the Board is not taking any decisions on this issue before a thorough conversation with GAC and consider the specificities of this issue and the legal aspect involved.

I just wonder, I don't have a clear view on this, but I just wonder that might be interesting to consider further discussions with the Board before making a full advice on this. So, an alternative will be to pass to move this up to matters of interest. But I just want to raise this discussion before I go to the text. I think that might be useful. Thank you.

NICOLAS CABALLERO: Thank you very much, Brazil. And that certainly aligns with what the United States mentioned before, to move the whole thing to issues of

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importance. But again, we don't need to decide that today. We can still do that tomorrow. There's not a time constraint yet as far as I understand. So, I just wanted to make sure that the wording was okay and that everybody agreed with the wording basically. So, thank you, Brazil, again. Any other comments or we should start reading topic 4? So, an interesting detail is that if we move it to issues of importance, the wording will actually change because it will not be advise, obviously. So, bear that in mind.

So, let me read topic 4, which is got Consensus Advice and GAC Early Warnings in New gTLDs. a) The GAC advises the Board: (i). To not accept recommendation guidance 30.2 regarding the timing of GAC Consensus Advice on future categories of TLDs in particular applications, oriented towards disincentivizing any such advice being submitted after the finalization and publication of the next Applicant Guidebook. (ii). To not accept recommendation guidance 30.4 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, GAC proposes the following alternative wording to that specific part of Section 3.1 of the 2012 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 Applicant Guidebook".

Can you scroll down a little bit please, Benedetta? And (iii). To adopt recommendation 30.6 with the inclusion of the compromise language submitted by the GAC as follows: Government(s) issuing Early

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Warning(s) must include a written explanation describing why the Early Warning was submitted and how the applicant may address the GAC member's concerns to the extent feasible".

And I'll stop there in order to see if I have any comment, any question, any edits any clarification. Are we okay in the chat room, Gulden?

GULTEN TEPE: We have Nigel Hickson from UK delegation would like to take the floor.

NICOLAS CABALLERO: Okay. Thank you, Gulden. Nigel, please go ahead.

NIGEL HICKSON: Yes. Thanks very much, Mr. Chairman. And this again is an important language I just think on the highlighted text in 2 and certainly the UK have no problem with the thrust of this, but I think in the last bit where we propose alternative wording in terms of the 2012 Applicant Guidebook, it would be better to say that, it would be better to propose the type of language we'd like in the forthcoming Applicant Guidebook. Because the guidebook is going to be what is relevant for this particular round. Others will have views on this but I just think that we're probably not really in a position to want to change the text in the 2012 Applicant Guidebook because this is, if you like, a historic document, what we're more concerned with is in the future guidebook. But we certainly agree that advice in this area is needed. Thank you.

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NICOLAS CABALLERO: Thank you, UK. Any other question? Any other comment? Any other edit so far? Gulden, are we okay in the chat room?

GULTEN TEPE: We have USA and then Brazil in the queue.

NICOLAS CABALLERO: Okay. And then Denmark. Who was first? Brazil, right? So, I have Brazil, the US and then Denmark. Go ahead, please.

FABIEN BETREMIEUX: Nico, I think it was the US was first, Nico.

NICOLAS CABALLERO: I'm sorry. I'm sorry. US. Susan, please go ahead.

SUSAN CHALMERS: Thank you kindly, Chair. Regarding the little 2, which would advise the Board to reject guidance 30.4. The US actually does not support this position. We take a different view. Basically, we know that there are diverse views within the GAC on the language regarding the strong presumption, but we believe that any text and any future Applicant Guidebook--

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NICOLAS CABALLERO: Susan, sorry to interrupt you. Could you please speak closer to the microphone? We have some more issues. I'm sorry to interrupt you. Could you please go ahead again?

SUSAN CHALMERS: Yeah. Sure. Basically, the United States believes that any future text in the Applicant Guidebook must be consistent with the bylaws regarding GAC advice. So, I'm not sure that we can accept for 4(a)(ii) at this at this time. We would not support it being included within the advice section.

NICOLAS CABALLERO: Thank you, Susan. Thank you, US. I have Brazil next.

LUCIANO MAZZA: Thank you, Nico. Now, just a clarification. I understand the concerns there. I think that's an important topic to Brazil, and I'm sure to other members as well. Probably there's a mistake here. When we make the suggestion of, let's say, a compromised text, probably the best thing here would be [inaudible 00:27:11] for provisions of the bylaws and not the Applicant Guidebook. Because I think the argument of the Board of ICANN is in the sense that there is a legal issue, and that by saying that there is a strong presumption, you are necessarily in contradiction with applicable rules of the bylaws. I think that's not necessarily correct.

I think there's a legal discussion there that can be made in more detail, probably not here. But I think it's possible to reconcile these two elements. It's not necessary for GAC to get into this detail right now. We could simply, for Brazil would be fine to stop in the first part of this

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advice, after approve, just not accepting the recommendation. And then further discussions on the task could be made later on. But I think we shouldn't neglect this issue in any way. And Brazil actually wouldn't support the inclusion of any advice on these issues if you have no reference to the topic of the strong presumption. Thank you.

NICOLAS CABALLERO: Thank you, Brazil. I have Denmark. Finn, please go ahead.

FINN PETERSEN: Finn for the record from Denmark. We have also in previous meetings and we made the contribution on this topic earlier have doubt with this strong presumption. We have the bylaws and we have how the Board should treat it. There is a process, there is how they should vote. And if they do not accept GAC advice, then there is a procedure that we should be involved in order to find common acceptable solution.

To Denmark's point of view, a GAC Consensus Advice, we see it as it has strong presumption that the Board should follow it. Only if the bylaws of the ICANN organization do not allow the Board to follow it, we can accept it. But from our point of view, it already has strong assumption when all government within ICANN agree upon a direction so we will be not in a position to have this text at the moment in the advice part. And we think that there need to be reflected further on this. And I also understood that Brazil, after all, they have a different view from us, but it's better not to keep it in the advice at the moment and we may come back to other text later. Thank you.

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NICOLAS CABALLERO: Thank you, Denmark. So, if I understand correctly, would you like to have this in the topics of importance session or to erase it directly? Just in order to see if I understand correctly.

FINN PETERSEN: I think we should get rid of it in the communique.

NICOLAS CABALLERO: Thank you, Denmark. And I have Canada next. Jason, go ahead please.

JASON MERRITT: Thank you very much, Chairman. So, I was reading and I was also a little bit confused by the addition of the paragraph there. From what I can recollect as one of the topic leads looking at some of this issue, we tried to keep it a bit simple and consistent with previous GAC comments. I think perhaps introducing a paragraph of this sort of nature and at this stage is a little bit perhaps premature and a little bit out of scope for what the intention from my perspective was in the first place. So, I would, if I'm understanding the comments correctly, I think I would also support omitting the second paragraph in its entirety just for the sake of keeping it a bit clean and sharp in terms of the advice and obviously with the intention to revisit any of these things in some other stage. Thanks.

NICOLAS CABALLERO: Thank you, Canada. And I have Brazil. Brazil, go ahead please.

LUCIANO MAZZA:

Thank you, Nick. A bit peak on this, but I think it's some colleagues, I think it's a very partial reading of this topic. And everybody's aware there is a specific recommendation, that is a recommendation 30.4 to erase that language of the strong presumption. And if nothing is done or suggestion on our side, that will be approved as it is. And we don't agree with that. We think there's an issue that must be discussed and considered. The Board is fully aware of this topic as we discussed earlier on today. It's part of the letter that the Board sent to that the chair, that the president sent to GAC in preparation for this meeting.

So, I don't think we can simply pretend that it's not a relevant issue. As I mentioned before, I think that's a symbolic and political element in there. It's the only topic in the whole track 5 about geographic names where there's a suggestion to change. And so, I think it's really very bad as a signal to the community that we're doing this. There is a legal discussion that can be made. I don't think there's any comprehension here of the bylaws. And as I said, it'd be without prejudice, the legal provisions of the bylaws. We can understand that the language on strong presumptions is something that can inform the interpretation of the text.

So, I think there's several ways whereby this can be fully reconciled. So, I don't think it should be considered as a minor issue. And for many countries, it is not. And so, if there is no consensus, so this might suggest is that we move the whole topic of GAC Consensus Advice and GAC Early Warnings in New gTLDs to issues of importance and have further discussions on the whole topic. Because I think we are putting,



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let's say, treating some topics as more important than others, and I think they are whole package. They should be considered together. Thank you.

NICOLAS CABALLERO: Thank you, Brazil. And I have the United States. Susan, go ahead, please.

SUSAN CHALMERS: Thank you kindly, Chair. We sincerely appreciate the intervention of our colleague from Brazil and welcome his compromised proposal to move this text into the issues in an important section where we made further- - I believe we need some more time to review the text. Thank you.

NICOLAS CABALLERO: US, let me just clarify. The whole section or just the (ii) section?

SUSAN CHALMERS: I might actually invite the views of our colleagues from Switzerland Canada on this issue, but in any event at least (ii).

GULTEN TEPE: Susan? I'm sorry, this is Gulden speaking. I'm sorry to interrupt you, but we are having difficulty to hear you. Could you please speak closer to the microphone? Thank you.

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SUSAN CHALMERS: Apologies. Headphones. Or I think we've got some feedback issues here. Oh, there we go. So, I guess, we would-- Well, we'd like to hear the views of our colleagues from our topic leads, I guess, on this first, but we'd be open to moving, we'd be open to Brazil's proposal.

NICOLAS CABALLERO: Thank you very much, US. Switzerland, go ahead, please.

JORGE CANCIO: Thank you, Chair, and thank you for putting us on the spot. I guess Jason can also complement. Jorge Cancio, Switzerland for the record. Really, from a topic lead's point of view who's been, yeah, addressing this for some years now, the situation is or could be described as the following. In previous inputs of the GAC to subsequent procedures when report was being finalized at the beginning of 2021 and then when the report was before the Board in June 2021, we saw that there was agreement, there was a consensus from the GAC regarding recommendations 32 and 36 to include comments we have elevated here to draft advice.

But regarding the question of the strong presumption and recommendation 30.4, it was never really possible to find a consensus amongst all GAC members, so in the GAC collective comments we issued at the time, there was always some reference to some GAC members believe this and some GAC members believe that is because we had different points of view. So, that's I think what I can say as topic lead, you have the final reports of SubPro link in the chats. And I guess, Benedetta can link it again.

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And there you will see that this is what we have on recommendation 30 with this problem about the strong presumption that the GNSO wants to omit or wants to get rid of. In this report from the GNSO, so there is also a section with deliberation where the reasons the GNSO working group had at the time are explained. And putting my national hat on, yeah, you can agree or disagree with those reasons. At least me personally as someone who participated in the bylaws' changes of 2016 and the corresponding negotiations, I don't see a direct link or a direct justification of this removal. But that's my personal opinion and not my opinion as topic lead. Thank you.

NICOLAS CABALLERO: Thank you, Jorge, thank you, Switzerland. I have Canada next. Jason, please go ahead.

JASON MERRITT: Sure. Thank you, Chair. And thank you, Switzerland, for a bit of that historical background. I think it's very helpful even for myself. My perspective on this was, the previous interventions, was just to the point of trying to, as a topic lead, introduce generally neutral texts that had already been discussed and was socialized as part of previous comments into the SubPro recommendations rather than introduce new wording here that obviously can potentially become further topics of discussion. The intention was just to stick with reiterating, so to speak, the previous GAC comments and to raise them with the Board as key issues that providing advice on. Thanks.

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NICOLAS CABALLERO: Thank you, Canada. Any other comment? Are we okay in the chat room? Gulden?

GULTEN TEPE: We have Nigel Hickson from UK delegation raised hand.

NICOLAS CABALLERO: Okay. UK, go ahead, please.

NIGEL HICKSON: Yeah. Thank you very much, Mr. Chairman. Nigel Hickson, UK, GAC. I mean, of course ultimately, we have to come to a way forward here and GAC advice has to be done on the basis of consensus. If any country is not particularly happy about having GAC advice, then an alternative, of course, is to have text in the issues of importance. We certainly feel that some of these items we've been discussing are very important, but clearly, (ii) is quite controversial. And thanks go to Jorge and Jason and others pointing out some of these issues, which of course we perhaps need to read about further in the final report.

On 1 and 2, whereas 2 is something which as I say is potentially perhaps for issues of importance, I think on 1 that if we're agreed on 1 that we don't want to limit the timing of the GAC Consensus Advice, then this would be advice rather than issues of importance because if we're in agreement that we should not accept the 30.2, then it would seem that this is the sort of thing that should go in advice. If we're unsure whether we should accept it or not, then perhaps we'd need to just reflect upon

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it in issues of importance. So, I guess it rather comes down on (i) to whether this is something that we agree with or not. Thank you.

NICOLAS CABALLERO: Thank you, UK. So again, if I understood correctly, you would be okay in keeping (i) and (iii) actually and moving (ii) to issues of importance. Is that what I understood? or correct me if I'm wrong please, Nigel. Yes, is that the case? So, would that be okay for everyone? And I see nodding. And Denmark, go ahead please.

FINN PETERSEN: Thank you, Mr. Chairman. Yes, we certainly can accept that (i) and (ii) is an advice. I think if we are going to move (ii) to subject issue that are important for GAC, we ought to return to the old language where some members think that is important to keep this notion of strong assumption and others do not think it's necessary. So, we keep the old texts there, then it will be okay with us. Thank you.

NICOLAS CABALLERO: Thank you, Denmark. Well noted. Any other comments?

GULTEN TEPE: We have Switzerland then Brazil in the queue.

NICOLAS CABALLERO: Okay. Switzerland, go ahead.

JORGE CANCIO:

Yes, thank you, Nico. Jorge Cancio for the record. And I guess my esteem colleague, Luciano, will get back to this right now. But maybe I can try to make a proposal that maybe strikes middle ground. I understand that Luciano proposed that if we cannot agree on (ii), we should move everything that has to do with New gTLDs to issues of importance. I think I wouldn't go as far as that because as we've been discussing, there are at least some of the issues like Applicant Support Program, which is very important to the diversification of the DNS and also other aspects and the questions about auctions that we haven't discussed yet, that at least in my national capacity, I think, merit's really being elevated to the GAC Consensus Advice.

At the same time, I understand that taking out (ii) and putting it under issues of importance while maintaining (i) and (iii) regarding GAC Consensus Advice and Early Warnings might give a different signal to the Board and wouldn't address the sensitivity that is felt by Brazil and probably other colleagues. So, what was crossing my mind is really to perhaps to move the part of GAC Early Warnings and GAC Consensus Advice to issues of importance and to give it a different kind of turn or of spin.

In the sense of really responding to the offer that the GAC and that the Board has made to the GAC to enter into a dialogue, an open dialogue on these matters with the GAC on GAC Early Warnings and GAC Consensus Advice, and to perhaps mention the issues we would like to discuss with the Board. And there, we may mention 32, 34 and 36.

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Perhaps, also with a qualification that the question of 34 is not a question that is supported by everybody or by all in in the GAC.

I don't know if this could be a way forward so that we could save at least some of the elements that really merit GAC Advise this time at ICANN77 and we could put forward the issues regarding GAC Early Warning saying GAC Consensus Advise through this dialogue that has been offered to us explicitly by the Board. So, I'm looking forward to Luciano and other colleagues. Thank you.

NICOLAS CABALLERO:

Thank you, Switzerland. I'm not sure I understand your-- Could you specify exactly what your proposal is?

JORGE CANCIO:

Yes. Thank you, Nico. Instead of moving everything to issues of importance, like Brazil has suggested, I would propose that we move only 0. 4 GAC Consensus Advice and GAC Early Warnings to issues of importance and maintain the rest under GAC advice, the auctions and applicant support, etc., that would stay under GAC advice. And with this moving of everything regarding consensus advice and early warnings to issues of importance and finding their language where what we do is really engage or offer to engage in the dialogue with the Board that the Board has offered us. And mention the three issues we have under (i), (ii) and (iii). I hope that that would be suitable common ground where we could find agreement also with our Brazilian colleagues. Hope this is clear this time.

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NICOLAS CABALLERO: Thank you for the clarification, Switzerland. I have Brazil. Brazil, go ahead, please.

LUCIANO MAZZA: Thank you, Nico and thank you, Jorge, for the very helpful comments. I think that our feeling is along those lines. The Board opened the door to engage in a dialogue to constructively try to find some solutions to issues that are difficult and sensitive. And if you don't touch upon the recommendation 34, we're actually renouncing the possibility of finding some common ground that would be acceptable for everybody. Because I believe if the Board itself or ICANN org come to the conclusion that there is a solution that in legal terms makes sense, I don't see why GAC should not endorse it. So, I think it would be a mistake not to engage in this dialogue.

And along the lines with what Jorge mentioned, to raise those issues, we can even say that while in relation topic 2, we are conscious, we are mindful that there are differences within GAC about this topic, but are open to discuss with a view to finding some sort of common ground there. So, that's a proposal with which we would be in agreement to move Item 4 to issues of importance, making sure that we can engage in a discussion with the Board to have a constructive and positive outcome on those issues. Thank you.



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NICOLAS CABALLERO: Thank you very much, Brazil. So again, just to make sure we're all on the same page. So, we'll move the whole block in number 4 to issues of importance. Is that correct? Is that good for everyone? And obviously, eventually, we'll review the text, the correct text for issues of importance, which might have variations, of course. But in principle, moving the whole block in under-- I mean, (i), (ii) and (iii), the whole thing under number 4, to issues of importance as suggested by Denmark and, by the way, agreed by Brazil and I understand the US and Switzerland the United Kingdom. Would that be a good way forward? And I see some nodding. So, let's do just that. So go ahead please, Fabien.

FABIEN BETREMIEUX: Thank you. And so, in terms of practically what we've done so far is add a section, GAC Consensus Advice and GAC Early Warnings in new gTLDs in Section 4 of the communique, which is issues of importance to the GAC. And I understand we will work with the topic leads to suggest an adaptation of the text as issue of importance.

NICOLAS CABALLERO: That's correct. So, let's move on. I guess at this point, I don't need to read the rationale because if we're moving the whole thing to issues of importance, I don't need to waste your time reading the rationale. Correct me if I'm wrong, but again, I'm in your hands. Any questions, Gulten? Are we okay in the chat room?

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GULTEN TEPE: Yes, we are, Nico.

NICOLAS CABALLERO: Okay. Thank you so much. Then we'll move topic 6, which is Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs. And I'll read the advice.

a) The GAC advises the Board: (i) To take steps to avoid auctions of last resort are used in contentions between commercial and non-commercial applications; alternative means for the resolution of such contention sets, such as drawing lots, may be used. Not sure, but I think we need to work on the wording there. But anyways, let me read the second. (ii), which is to ban or strongly disincentivize private auctions. I'll read the rationale and then we can go back to the advice. Unless you want to discuss advice first. Are we okay with advice, (i) and (ii)? Any suggestion? It sounds a little bit weird to me, but again I'm in your hands. United States. Susan, go ahead, please.

SUSAN CHALMERS: Thank you, Chair. We would like just to take some time to review. So perhaps we can move on to the rationale.

NICOLAS CABALLERO: Thank you, US. Any other comment? Any other clarification, questions?

GULTEN TEPE: We have UK in the queue.

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NICOLAS CABALLERO: Okay. UK, Nigel. Go ahead, please.

NIGEL HICKSON: Yes, thank you, Mr. Chairman. So, I think the addition in red in (i), rather than maybe "used", perhaps we could say should be considered or some language like that. And perhaps I was quite happy without the red text, but I mean, there could be good reasons for it. And I think we need to reflect here on the discussion we had with the Board today, where they did express, they understood our concerns that you would have an auction effectively between a billion-dollar company and a non-government organization or a charity or some other non-profit vehicle that will not be able to put up the necessary funds for auction.

I mean, this was of immense concern during-- And I'm not going to make a speech here but this was an absolute fundamental issue during the last round. The alliance of the world are on ICANN in this application round. And having a contention between Goliath and an ant, it just will not wash, it will not wash globally. So, we need to do something here. Thank you.

NICOLAS CABALLERO: Thank you very much UK. Any other comments Gulden?

GULTEN TEPE: Thank you, Nico. Jorge Cancio, Switzerland.

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NICOLAS CABALLERO: Switzerland, please go ahead.

JORGE CANCIO: Thank you, Chair. Jorge Cancio, Switzerland for the record. So first of all is to say that the green text really maps what we have said before in GAC collective comments. So, the thrust of the two elements first being that auctions of last resort, so the auctions that are organized by ICANN itself, should not be used to resolve contentions between commercial and non-commercial applications is something that we already have said.

And the other (ii) is also another thought that the GAC has expressed repeatedly, that so-called private auctions that in the last round led to a lot of gaming and a lot of scandal of applications that were presented without honest intentions, but to really game the system should be avoided. So, that's, let's say, my topic lead input and now my national input and you can see it in red is reacting a little bit to the conversation we had with the GNSO and with the Board.

So, the first reaction is this change to take steps to avoid. It's a way to soften a little bit the language in (i). Taking into account what Harry, I think, said before in our meeting with the Board, that the Board probably cannot ensure completely that this might not be the case. So, that's a way of trying to address that. And the second part of the text that could be drafted better as Nigel hinted at is to address a comment from GNSO Council where they said more or less that if auctions of last resort should not be used between commercial and non-commercial applications, maybe we should be recommending or suggesting some

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alternative means. And during the subsequent procedures, discussions in the working group.

Back then, there were different alternatives being mentioned, including if I recall correctly, drawing lots, which is a mechanism that costs no money, that is completely, yeah, that establishes no precedents because of financial assets between the parties. And therefore, it's very well suited to resolve in a very quick and efficient and cost-effective way the contention sets between commercial and non-commercial applications. And all of you, or many of you will know that drawing lots is used in in many different scenarios, even in elections when two candidates have the same number of votes. So, that's as a way of clarification of the red text in this point. Thank you.

NICOLAS CABALLERO:

Thank you very much, Switzerland. So, let me read the rationale and then we can go back to the potential advice in order to have a better understanding if I may. So, the rationale reads, While the GAC acknowledges that in an attempt to reduce potential gaming, recommendation 35.3 dollars 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 or 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, and reiterates that private auctions should be

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banned or strongly disincentivized. Other means like drawing, lots may be used to resolve contention sets.

The GAC agrees or supports ALAC's view expressed in its advice to the ICANN Board, noting that they believe there should be a ban on private auctions. Also, 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.

So, that's the rationale. Any reactions? Any comments to the rationale? That gives a little bit more color to the potential advice in my humble opinion. But again, the floor is open. Any question? Any comment, Gulden?

GULTEN TEPE: We have Iran in the queue.

NICOLAS CABALLERO: Okay. Iran, go ahead, please.

KAVOUSS ARASTEH: Yeah. Thank you, Chair. I think maybe the rationale is not fully consistent with the GAC advice number 1. We are going far beyond that. However, we go back if you allow me to GAC advice. I suggest that do we need to talk about alternative at this stage? We end on the second line application without saying alternative means for resolution such as drawing lots maybe used. Do we need to say that or leave it up to

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application and leave it to the Board to further see what other alternative. Because I was there when it discussed many alternative variables, but we took one of them or at least take one of them with or without reasons. So, do we need to put this red part, alternative means? This is on the GAC advice. If you resolve that, maybe you could also resolve some of the rationale parts. Thank you.

NICOLAS CABALLERO: Thank you, Iran. According to Switzerland, they have already explained that, but I'm happy to go back to you, Jorge, if you would like to take that one.

JORGE CANCIO: Yes. Thank you, Chair. Jorge Cancio for the record. And thank you, Kavouss, for your question. Yeah, this is to be a bit more efficient and to avoid the back and forth between the Board, us, and the GNSO. Because if we say, okay, between commercial and non-commercial applications, we don't want auctions of last resort, which is the normal means to resolve contention sets according to the policy recommendations, the Board will say, okay, what is the alternative?

And they may ask us or they may task the GNSO to resolve that. And without guidance, it's probably that the GNSO may end up with the same result as they had after five years of discussion, which is they couldn't agree on other means so they ended up with auctions of last resort, which as we said, as also Nigel said, is completely inadequate for resolving contention sets between commercial and non-commercial

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applications, a position that the GAC has held for a long time in different collective comments.

That's why in my national capacity and recalling what we discussed in the subsequent procedures working group, and recalling also practice being used in many other themes and topics in order to resolve contention sets, we could, as an example, mention amongst other alternative means the drawing of lots. But I'm fine if we say alternative means like drawing of lots or other alternative means that colleagues may come up. But just throwing out the means that is now being foreseen without offering a practical solution, I think, would be not very useful. And this is something that we heard in the conversation with the GNSO Council a couple of days before. Thank you.

NICOLAS CABALLERO: Thank you very much, Switzerland. That was my understanding as well. But again, my opinion is totally useless as I'm 100% neutral. I'm in your hands. Any other comments? Any other question or clarification? Australia, go ahead please.

IAN SHELDON: Thank you, Chair. Well, I'm just popping something. Ian Sheldon, GAC, Australia, for the record. I've just popped a little comment in there. We're quite supportive of this advice.

NICOLAS CABALLERO: Ian, would you please speak a little bit closer to the microphone?



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IAN SHELDON: We are quite supportive of this advice, including the helpful suggestion of some examples for alternate means. I also just had a minor suggestion to clarify a little bit of the grammar in (i), to take steps to avoid the use of auctions of last resort in contentions. Thank you. Just a minor edit.

NICOLAS CABALLERO: Thank you, Australia. Any other comment? Any other suggestion, Gulden?

GULTEN TEPE: We have Iran seeking for the floor.

NICOLAS CABALLERO: Iran, go ahead, please.

KAVOUSS ARASTEH: Yeah. Thank you, Chair. At the end of the sentence, used, perhaps they may try to have another term, maybe explore. I'm not saying that you use it. Exploring to see whether it's fair or not. So, after the explanation of Jorge, so I agree with him, but not saying use maybe, explore. Thank you.

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NICOLAS CABALLERO: Thank you very much, Iran. So, let me read it again and then we'll see if we have an agreement here, right? So, 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; alternatively means for the resolution of such contention sets, such as drawing lots, may be explored.

Is that good for everyone? Do we have an agreement there? And I see nodding in the room and more nodding So, we're good, I guess. So, I don't think I need to read the whole thing again because I'll be reading again tomorrow. So maybe we can just move on to the next topic unless you want to address their rationale again. I don't think there's a need for that, but again, I'm just, I'm in your hands again. So, are we okay to move on to the next topic? We still have 15 minutes. Maybe we can cover some ground there. And I see nodding again, so let's move on to the next topic. Sorry, go ahead, Fabien.

FABIEN BETREMIEUX: We seem to have still some piece of unresolved text, and as I've missed it. If you go in last paragraph for the rationale, have we agreed on the terms here?

NICOLAS CABALLERO: Good point, Fabien. Yes. Yes. So, the third paragraph, right? So, it reads the GAC agrees or the GAC supports? What should we choose there? What should we put? Any suggestion? And I have Canada. Go ahead, please, Jason.

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JASON MERRITT: Thank you, Chairman. Just for a bit of clarification. This was just a minor editorial that I had popped in there as I was reading through not intending to spark any lengthy discussion on this. I just, when I read it, "the GAC sees value in ALAC's, etc. I thought maybe a bit of a better word to offer support or agree with their express views rather than "sees value". I was just confused by that, what that actually means. But I'm happy to go with either or revert back depending on what people feel. It was just an editorial suggestion.

NICOLAS CABALLERO: Thank you, Canada. And I have the Netherlands. Go ahead please.

MARCO HEGENWONIN: Thank you, Mr. Chairman. Marco for the Netherlands. Maybe then let me be the tiebreaker. I think support is the correct word here because we don't have anything to agree on. We can only support ALAC in their views.

NICOLAS CABALLERO: Thank you, Netherlands. And I have Iran and then the UK. Iran, go ahead please.

KAVOUSS ARASTEH: Thank you, Chair. If between agrees and support or doubt, perhaps we should do it differently. We're saying that the views of GAC in this regard is in line with that of ALAC's. Not saying support, not saying agree, in

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line with that. Another alternative. Should people do not agree with support. If they agree with support, I have no problem. Thank you.

NICOLAS CABALLERO: Fair enough. Thank you so much, Iran. I have the UK.

NIGEL HICKSON: Yes. Thank you, Mr. Chairman. I mean, support, yes, no problem. I just wanted to note that the ALAC's view is that there should be a ban. And in our advice, we're not necessarily saying there should be a ban. But supporting that is, yes. Thank you.

NICOLAS CABALLERO: Thank you, UK. Any other edit? Any other suggestion? And I have Columbia. Colombia, go ahead, please?

COLUMBIA: Well, I think in this case, if we don't want to say anything about support or agree, we can just acknowledge or highlight ALAC's view expressed and not pass a judgment on it.

NICOLAS CABALLERO: Thank you, Colombia. Gulten, are we okay in the chat room? So, we have two options here. So, the GAC acknowledges or the GAC supports. And again, I'm in your hands, what should we do?

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GULTEN TEPE: Thank you, Nico. We have Kavouss Arasteh from Iran delegation on the queue.

NICOLAS CABALLERO: Iran, go ahead, please.

KAVOUSS ARASTEH: Yeah. Thank you, sir. I think acknowledge or acknowledgement is much weaker than support. So, we downgrade a little bit our views. I think saying that GAC views are in line with ALAC is something that acknowledging does not necessarily mean support. Thank you.

NICOLAS CABALLERO: Thank you, Iran. Colombia, would you be okay with support then? Thank you very much. And I see some nodding. So, we're good to move on then. Support. Okay. Let me read the whole thing again then. And I'll read only the third paragraph for the sake of time. 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. Also, 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.

Are we okay with that? And I see nodding again. Perfect. Let's move on. We still have 8 minutes. Let's try to cover some ground there because this is actually very short. So, Benedetta, could you please scroll down? Number 7 is Accuracy of Registration Data. The GAC advises the Board to work with the GNSO and ICANN Org so that the

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proposed study on the accuracy of Registration Data (as called for in XX) can be taken forward in advance of ICANN 78. And that's a suggestion from the United Kingdom. Are we okay with that? Any actions? Any clarification? I have the UK. Go ahead please.

NIGEL HICKSON:

Yes. Thank you, Mr. Chairman. I suggested this as a placeholder depending on how our discussions went during this meeting. We had reflections on this with the GNSO. And I understand that some text is being prepared and I haven't been able to scroll up and down, but to note some of the important aspects of the discussions on accuracy that we had in issues of importance. So, if an appropriate text is in issues of importance that does express the importance of this issue and the need to move forward in certain respects on some of the work that was recommended by the small group, then this text would not necessarily be needed. So perhaps, I'm in your hands, of course, Mr. Chairman, but we might park it for now and then-- Yeah. But Susan will probably have a better suggestion. Thank you.

NICOLAS CABALLERO:

US, would you like to take the floor or we can move on? It's up to you.

SUSAN CHALMERS:

Is there any feedback?

NICOLAS CABALLERO:

No.

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SUSAN CHALMERS: Okay. I apologize for that. Yes. The US has offered text in the issues of important section on this topic. So, we would support removing number 7 in light of the text that we've proffered. Thanks.

NICOLAS CABALLERO: Thank you, US. Any other comment? Julia? No? Okay. Given the fact that we still have five minutes, let's have a quick look at the issues of importance in order to cover some more ground. Just a quick look. So, topic 4, Issues of Importance to the GAC. We have closed generic TLDs. I'm not going to read the whole thing because we're going to have enough time tomorrow, but basically, it will be closed generic TLDs. Can you scroll down a little bit? Fabien, can you go ahead?

FABIEN BETREMIEUX: It was just a reminder so that-- Sure, sure, absolutely. And so that's a reminder for the fact that we put a comment to clarify who this is from. I think you mentioned it when we first reviewed the communique. So just maybe a reminder that this was proposed by the GAC topic leads, Canada and Switzerland with red lines submitted by France and European Commission.

NICOLAS CABALLERO: Thank you very much for that, Fabien. Can you scroll down please, Benedetta? So, the DNS abuse. That was proposed by Japan, and you have the text there, and with edits from the European Commission. And by the way with text from the US. Can you scroll down a little bit? So,

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we have Japan, the European Commission and the US. I'm not going to be reading everything because we only have three more minutes. But if you can please scroll down again, Benedetta, we'll get to the next topic which is RVCs and PICs. And then as we agreed, we'll put there GAC Consensus Advice and GAC Early Warnings in New gTLDs. And finally, registration data accuracy. I'm pretty sure that's the last one, right, Benedetta? Okay. So, we still have three minutes. Any comments, any clarification? Are we okay with that? Would you want me to do anything different? And I have the US, right? US and Iran. US, go ahead, please.

SUSAN CHALMERS:

Thank you, Chair. Just very briefly. As colleagues review the text this evening, I think it's worth noting that we've offered the DNS abuse text as an alternative to the text that is proposed by Japan and the Commission, and we can further explain our rationale on that tomorrow. But just in terms of posture, I want to make sure that was clear for the colleagues. Thank you.

NICOLAS CABALLERO:

Thank you very much, US. And I have Iran. Go ahead, please.

KAVOUSS ARASTEH:

Thank you, Chairman. Either in in two minutes we left or tomorrow, come back kindly to the number 1. I see there are some small things we have to do there.



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NICOLAS CABALLERO: Okay. Perfect. Thank you, Iran. Any other comment? Any other question? Fabien, go ahead.

FABIEN BETREMIEUX: I'll just mention that Benedetta is inserting at this moment the text for GAC Consensus Advice--

GULTEN TEPE: Fabien, I'm sorry to interrupt. Could you please speak closer to the microphone? Thank you.

FABIEN BETREMIEUX: I apologize. So, I just wanted to say that we are inserting at this moment the text for GAC Consensus Advice and GAC Early Warnings in New GTLs. So, that will be available for review. I believe the text was drafted by the GAC topic leads with-- Okay. So, that includes the rationale that also that was proposed by Brazil. So, I think this is the proposal for review at this moment on that section.

NICOLAS CABALLERO: Thank you very much. So, that would take us to the end of the session unless anybody else has anything to say. Any final words, any final comments? Seeing none, so we'll reconvene tomorrow at 9:00 am. Enjoy the networking cocktail. Have a good evening. Thank you so much. The meeting is adjourned.

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**[END OF TRANSCRIPTION]**