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ICANN77 | PF – GAC Discussion: New gTLD Program Next Round (1 of 2)  
Monday, June 12 2023 – 13:45 to 15:00 DCA

GULTEN TEPE:

Hello, and welcome to the ICANN77 GAC discussion on New gTLD Program Next Round session on Monday 12th of June at 13:45 local time. Please note that this session is being recorded and is governed by the ICANN's Expected Standards of Behavior. During this session, questions or comments submitted in the chat will be read aloud if put in the proper form. Remember to state your name and the language you will speak in case you will be speaking a language other than English. Speak clearly and at a reasonable pace to allow for accurate interpretation, and please make sure to mute all other devices when you are speaking. You may access all available features for this session in the Zoom toolbar. With that, I will hand the floor over to GAC chair, Nicholas Caballero. Nico, over to you, please.

NICOLAS CABALLERO:

Thank you very much, Gulten. Welcome again, everyone. Welcome to this session on New gTLDs. This is going to be the first of two meetings. The meeting will run for 75 minutes and then we'll have another break. And then we'll be discussing some other issues. So, let me just make sure that we have Nigel. Let's see? Yeah. He's already here. Okay. So, we're all set. With that, let me give the floor to the topic leads Jason and Jorge Cancio, Canada and Switzerland. Jason, the floor is yours.

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JASON MERRITT:

Thank you. Thanks so much, Nico. So, here we are today to talk about the next round of new gTLDs and really this discussion is focused on the work that's been done on closed generics over the last several months. Myself and Jorge are, of course, the GAC topic leads for SubPro matters. And fortunately for us, we get to lead this session on close generics with our GAC colleagues. I think this is a really good session timing for this because as we can see that we've hit a turning point or a pivotal point in the dialogue around closed generics. And so, this will be a good opportunity to discuss some of the decision points that are coming up, where we've landed, look at the framework, and have a bit of a chat about it here.

So, if we go back quite a long time ago once upon a time, there was the first round of gTLDs. And we have at that time a bit of controversy around whether or not closed generics would be allowed and ultimately you get Beijing advice saying that should we have closed generics for a future round, it would have to be built around this public interest. And so, throughout the time leading up until now, the issue has not been resolved. It wasn't able to be resolved through the SubPro recommendation policy process.

And so, what the ICANN Board did was send a letter and have this facilitated dialogue put together where you have members of the GNSO, ALAC and GAC come together to try to discuss this topic, put together a draft framework to go out to communities. The intention would be to help shape future policy processes on this. So, this was agreed to by the communities. Your GAC representatives, which are here with the exception of Jorge who is online, were Manal from Egypt to Jorge,

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Sweden, myself from Canada. Yeah. Oh, Switzerland. My bad. Sorry. And Nigel from the UK, Ian from Australia and Ronke from Nigeria.

So, this group has come together in good faith to try to work through some of the issues around closed generics and come up with a draft framework like I had mentioned. It's been going on for quite some time, several hours of meetings a week. And ultimately, what we've done is identified some of the unique characteristics around closed generics, some of the risks and opportunities, a lot of the challenges from the different communities' perspective on how these things could potentially work within the next round and how they could be potentially utilized.

And really, it's been a discussion point around trying to build this around the public interest per the GAC advice in 2013. That's been the pivotal point here to remember is that at least from the GAC perspective, although we're joining this in our own capacities, not necessarily representative of the GAC, not representative of our individual countries in a way, but really as a matter of good faith, multistakeholder policy work, but always keeping in mind that we have the GAC public interest in mind as we're negotiating through some of these things.

So, we started with building around general principles, identifying hypothetical situations and different types of examples of what a closed generic might look like, what kind of applications could we potentially be dealing with, and building discussions around some of these use cases, these hypothetical use cases. And really the idea there was to tease out some of the issues that might arise with potential applications on in some of these areas, and then slowly start building this framework that could potentially be used for a further GNSO policy process. We essentially

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broke this down into three main areas, an application phase, an evaluation phase and a post-delegation phase.

So, we really tried to work within each of these blocks and figure out the high-level parameters on how this could work operationally. So, we look at the application. What does it look like for an application to come in? What are the requirements that may need to be discussed during an application process? How is this different from other TLD applications? Moving into the evaluation phase, okay, what is it that needs to be evaluated within the application, who does the evaluating, how do some of these things operationally start to work out? And then again into the post-delegation phase, what types of commitments and responsibilities would have to be followed through on the guardrails and frameworks put in place to ensure that these things that it goes as planned?

Really what we did was just work within these three parameters and the communities identified the criteria and sticking points in red lines within each of these phases and tried to work through where the compromises could be, where the red lines could be, how can we continue to move this work forward. The spirit and the intention here was to work in good faith and try to establish something for the community to digest and evaluate and think about further.

So, what we ended up with is a draft framework that was shared with the communities very recently last week, I believe. A 15-page document roughly of some of the-- basically building out the work that we had done in these three phases and sketching out what this draft framework looks like. So, that was shared with the communities. We also are holding two public sessions here at this ICANN meeting. One happened this morning, there will be another one later in the week to kind of open it up to the

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communities to talk and ask questions and give a little bit of an overview. Here in the GAC, we wanted to focus one of the SubPro sessions that we had scheduled on discussing this framework just because of how dense the issue is and how important it is to GAC members.

So, really, I think the purpose here is within this meeting within the GAC to have an open discussion around some of the issues, what's going. Hopefully people have had a chance to digest, the framework. I understand is probably pretty dense to go through, but I think it's probably a good starting point to have that discussion. What we're ultimately looking for is feedback on this from the communities and from my perspective, from the GAC as well, looking to really get a lot of robust feedback into this.

The intention here is we need as much feedback as possible so that the facilitated dialogue group can take that back and refine this framework and embed some of the comments and feedback into it in order to address any concerns or positive comments or anything that the GAC has, but also other parts of the community. This feedback loop is incredibly integral to what the ultimate product is going to be on this. Once we go through that feedback cycle, we're going to churn out another version of this, a revised version or final framework, I suppose if you will. And that will go to the communities for their blessing, so to speak, that in broad strokes, this is something that can go forward for additional policy, GNSO policy processes on this.

I just want to pause there and maybe reiterate to that point. There's a few things with that that are important because it does seem a bit confusing because this is a new policy process. It's operating on-- It's not necessarily something that is an official PDP like people might be used to

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seeing. This is something that has been worked through the communities and done in a way that is very organic and bottom-up and trying to come up with something.

So, I think one of the key points that I wanted to get out on this was that what has been shared with you is a draft framework. And we are holding these sessions, these open sessions at this ICANN meeting and dedicating this SubPro here in the GAC in order to make a plea and a pitch to people that we need your feedback on this, because that will be what shapes the outcome. So, we need that feedback. And that's differentiating that Phase 1 of the process to Phase 2 where it's this taking in that feedback, addressing the concerns, and then going back to the community with this final product where you will need GAC blessing, ALAC blessing, GNSO broadly. Some of those bigger community inputs will have to give a thumbs up or a thumbs down as to whether or not to proceed with this.

If we don't reach agreement on the final product, the issue of closed generic gTLDs will go back to the Board for an ultimate decision on whether or not to proceed or not. So, we're hoping that as a community, multistakeholder policy, framework development process, we can come up with something and not get it to that point.

So, these are some discussion questions that I put up here, and I think a couple of points that just to hammer home here. You have a draft framework. We want your comments so that we can do a final product and share back for a decision point. I think that that's a key takeaway from this. Comments on the framework, we can discuss this as part of-- we can talk about this as a GAC as part of these discussion items. Whether or not we want to have a collective GAC comment on the framework, which is an option. And of course, governments in their

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individual capacities as well are more than welcome to chime in on this via the vehicle that we've set in place to get this feedback into.

So, I think what I'll do is I'll pause there. I breezed through those slides a little bit quickly and hopefully just to give an overview and we can discuss it more, but I might just turn it to Jorge quickly if he had anything to add as the topic lead from Switzerland that accompanies me on this, and then the other members up here as well before the discussion. So, thank you.

NICOLAS CABALLERO: Thank you very much, Jason. So, again, before I open the floor for questions, Switzerland, is there anything you would like to add at this point?

JORGE CANCIO: Yeah. Thank you. Thank you, Jason, and thank you, Nico. Can you hear me okay?

NICOLAS CABALLERO: Yes.

JORGE CANCIO: This is Jorge Cancio from Switzerland. Just to share with you some thoughts I shared also this morning in the first session, the first open session on this closed generics dialogue. I think, first of all, it is very important to acknowledge that this has been a multistakeholder effort, thanks to the Board, who have recognized that there was a need for the community to discuss. They have really had the very valuable initiative

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of setting up GNSO-GAC dialogue, which then was expanded to a GNSO, GAC, ALAC dialogue. And so, I think this is very important also as a precedent, which is not the first one, but it's a very important format in which recognizes the role also the GAC in these kinds of discussions.

Secondly, I would like to share some very general points. And the first one is, of course, as a consequence, that this is a multistakeholder effort. It doesn't meet to 100% the interests of any of the stakeholder groups present in the dialogue. We have to be mindful that the optimum is enemy to the good. And as a colleague said this morning, this is a camel. This is not a perfect animal, so to say. It has certain features, which are due to the seeking of agreements between very different stakeholders.

And very importantly, also, we are now at the framework level, and the framework level is like that high-level policy principles, so to say. And if we get to an agreement in the coming weeks or months on this framework, the second step will be then the policy discussion, the GNSO will launch policy development process of some kind. They haven't decided yet what type exactly, and we will be able to participate therein, of course. Yeah. And after that, we will have implementation.

And regarding substance, as somebody who has been following this discussion for many years now, let me tell you that the GAC representatives, but also almost everybody in this facilitated dialogue accepted the Beijing advice from the GAC in 2013 saying that an exclusive registry top-level domain, this means closed generic top-level domain could only be allowed if it serves a public interest goal. Everybody has accepted this as a baseline, at least in my understanding.



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And our role from the GAC members, but also from some of our GNSO colleagues and our ALAC colleagues has been to put flesh on the bones of this GAC advice of 2013, inter alia, making sure that public interest goes beyond just private or commercial interests of one party and that there is a connection with the public good, with the public welfare, that there is a nexus between choosing this close character and the public interest that you are going to serve. That there are clear public comment periods whenever such an application is made so that everybody can chime in. And then there is also a specific objection process for these kinds of top-level domains. That the applicant has to bear the burden to demonstrate all the things they are putting into their application amongst other things, proposing clear commitments, how they are going to serve the public interest, commitments that have to be enforceable. And finally, there are also guardrails to try to make sure that such closes generics are not used in order to further an anti-competitive behavior by the applicant.

So, I think these are my comments. Of course, the product is not perfect. That's why we are seeking your comments. And in the end, as Jason said, the final-final draft framework has to come back to the GAC for final yes or no. And I guess that would be in subsequent weeks. Thank you so much.

NICOLAS CABALLERO:

Thank you very much, Switzerland. Thank you, Jorge. So, again, this is a draft framework. And as Jason mentioned, the final framework, if one were to be agreed, will set the basis for the subsequent policy work that the GNSO Council would potentially initiate. But if the group for whatever reason doesn't reach an agreement on a final framework, the

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issue would revert to the ICANN Board. Anything to add, Nigel? Yeah, go ahead please, UK.

NIGEL HICKSON:

Yes. Thank you very much. Nigel Hickson, UK GAC. So, I was privileged along with my colleagues here to be one of the members on this group. So, I don't want to say anything about policy and process, if you see what I mean, because I think that's been covered exceptionally well by Jason and Jorge. Yes, the more comments, the better, that's all I'll say on that.

But I just wanted to point out that something I briefly mentioned in the working group this morning. Many of us went into this process wondering if we could ever really identify a case for a closed generic name. And we sat around a table, we had a beer. No, we didn't actually have a beer. We sat around a table and we exchanged ideas. We said, "Well, let's come up with some examples." And we came up with lots of memorable examples, most of which I've forgotten. But there were two examples I think that struck a chord and I'd like to just share something on these because I think it helps to explain where a closed generic could be useful and could be justified. Or what we thought. But, of course, it's up to the community.

And the first thing to say, of course, is where a closed generic could not be justified. And so, take the example of dot cars. These are just purely fictitious. So, an application comes forward for dot cars, and it comes from say BMW or any other Mercedes. And they say, "Well, we're pretty big in the car industry. We want a generic name, dot cars. And we're going to say on our website, Mercedes means cars. This is it. We closed. It won't be open to anyone else. No one else can say I make Fiats,

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or I make Citroen, or whatever." And that would be a closed generic. And for many people, that would perhaps be unacceptable unless there was an agreement in the whole car industry that perhaps BMW could represent cars or Mercedes could represent cars.

But on the other hand, you could have a situation and this is one of the examples that we discussed, where there was perhaps there was an international disaster. And unfortunately, these often happen. And the disaster committees of the International Committee or the Red Cross or whatever got together, and they said, we need to raise funds for this disaster of flooding, global event or something. And the ICRC agreed with the other agencies that for disaster relief, the different global agencies, that they would host a site called dot disaster. And this would be a site where people could donate for the victims of floods or whatever it was.

And the advantage of this is that it would be dot disaster. People would know if they went to dot disaster, it was being administered by the ICRC in conjunction perhaps with other bodies, and it would be a reputable place to go to put money rather than having a myriad other sites that often get fished or whatever.

So, I'll stop there because other people will want to contribute, but I think perhaps that, if you like demonstrates where you could have a justifiable cause that would be in the public interest for effectively what is a closed generic. Thank you.

NICOLAS CABALLERO:

So, before I give the floor to Manal or Ian, I see a request for the floor from Portugal. Portugal, please go ahead.

ANA NEVES:

Thank you very much. I will speak in Portuguese. I want to speak on behalf of the GAG representatives. Actually, I was waiting for the discussion to move on among the GAC representatives. Perhaps now, I can check you can hear me. Well, everything is all set. Okay. So, now I wanted to see in further detail what is it that we are discussing. Let's talk about Nigel's example.

There is a disaster. In this case, the organization might apply for dot disaster. Well, I have some difficulty in understanding the logic behind it. Why is it necessary? Is it necessary to get funds, community assistance? How does it relate with the domain name system? Why do we have to use dot disaster for this purpose? I cannot understand it. And I would also like to understand the case of dot ocean. This seems to be a case as well. In which circumstances could we deal with this case dot ocean as a private entity?

In today's session, I've heard and I'm hearing it now and I have read the document but what I need is to see more concrete cases. I know this is a very difficult exercise and I thank you for your patience, all of you, I thank of how patient you've been for this exercise. But the purposes of this is for me to understand the difficulties and the challenges I had to face, and how is it that dot ocean perhaps could be granted to a private organization. Thank you very much.

NICOLAS CABALLERO:

Nigel, Jason, Ian, Manal, would you like to take this question? Go ahead, please.

RONKE ADENIYI:

Hello, everybody. My name is Ronke from Nigeria. Hello, Portugal. I'm sorry I didn't get your name. Ana. Hello, Ana. So, when I joined this working group, it was like September last year, I had the same concerns. I just didn't understand why we should have a closed generic top-level domain name. And like we did say earlier on, I hope I'll be able to address your questions but I have my colleagues here as well, like we did say, this is an issue that's been around for like over 10 years. And this team was charged for like six months back-to-back meetings and all of that to see why we do not even have any existing examples so to speak.

So, we are looking at diversity, opening up the internet. I stand to be corrected. And this is why the issue of having closed generic should come up. And based on the Beijing GAC advice 10 years ago, 11 years ago, one of the major issues was even if you're going to come up with closed generic, that's opening up new trains on the internet. We like it or not, it's a dynamic resource. It will continue to emerge. So, it must serve public interest. And like we did say on in the course of presentation by Jason, the Board, this is the first time, I stand also to be corrected, is trying this process of facilitated dialogue. Let the community speak to one another, but perhaps they will understand one another's language.

So, what did we do? We looked at various issues particularly regarding public interest because I can relate to your question being a government official. One of the focus or the key responsibilities for governments all over the country or rather the world is to ensure national interest is protected, likewise public interest. So, why should I support or what's the logic behind giving dot ocean to a particular person, for instance, or dot disaster? I bring it back to the emergence of the internet. The names

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are going to change. We're going to see a lot of things come up. But what we are looking at here is even if we are going to open up as GAC, do you think dot ocean if it's going to be handled by a particular registry or registrar, does it meet public interest?

We looked at it from anti-competitive issue. We looked at it from the responsibilities of the end user. In this case, the end user do they or are they aware that if you're going to dot ocean, these are the information you will get or dot disaster? Then we look at the obligation, so to speak, of the registrar. It is your responsibility to ensure that if you use these or you're issued this particular closed generic name, you now use it for anti-competitive practices or fraudulent actions, so to speak.

It's like it's camel like somebody said early on. We are walking on it. I don't have the total response, but I hope I've been able to open up the picture because I did have this picture about six months ago when we started. If you'd like to contribute, please. Thank you, Jason. Yeah. Thank you.

NICOLAS CABALLERO:

Thank you, Nigeria and sorry, I forgot your name. Ronke. Thank you so much. Manal, please go ahead.

MANAL ISMAIL:

Thank you, Nico. And thank you, Ana, and everyone. So, I will not repeat the general comments that my comments were already covered very well by Jorge and Jason. But to your question, Ana, so based on the first round, we did not have an agreed default situation, and the topic was tabled for later discussion. So, in all cases, we had to have this discussion

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in order to have a default at hand. Otherwise, we didn't have something to refer to. The work of this group could be seen as trying to find a common starting point again. So, we try to see how we can start the discussion again without being rigid on the extreme positions, so neither stopping the whole thing from going on nor going with a first come first serve without any rules.

So, I think this is a good approach to start by some example, go through the example and see what exactly are the criteria that we would like to see during the evaluation period, for example, in order to make sure that closed generics that would pass the evaluation would not cause any concerns to governments or to the public interest. As everyone mentioned, we try to focus our discussion on public interest, on having all the information clearly identified online, on having enough time for comments by the public and also making sure even post-delegation that the applicants are continuing to fulfill their commitments.

And also, as Jason mentioned, we have agreed on three phases, the application, the evaluation and the post-delegation. So, I think within this structure, we can try to make sure that we cover all concerns by governments. One last thing on this, the deadline for comments is on the 15th of July. So, it's around four weeks from our meeting here. This is not long at all. I think we need to structure how we would like to organize our comments and our discussions. And I had something else in mind that I forgot, so I'll hand it back for now. And I see a hand up from--

NICOLAS CABALLERO: Canada, go ahead please.

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JASON MERRITT:

Sure. Thank you, Nico. Thank you everyone. To perhaps maybe just pick up on the point to the question that was raised by Portugal. I think if I understood it, the question of why is a very good one to tease out as part of the discussions around here. When you start thinking in hypothetical examples and things like that, you automatically come to a place of, well, what's the purpose of it being served closed versus open? I think that's a good question to kind of tease out on some of these things.

Perhaps there are situations where it could be maybe if you think about it from the opposite way, a protection mechanism against a certain name or type of generic word. In other cases, it might not be, but I think if I wanted to emphasize your point or at least in my mind digest it the way that I heard it was that it's question of why and a very good case to be made should an application come in for something to be closed versus open. It needs to be flushed out as part of the application process, evaluation process, that type of thing. And we did have some of those discussions within the group.

NICOLAS CABALLERO:

Egypt, go ahead please.

MANAL ISMAIL:

I'm Sorry. Just very quickly and I'm reading from the framework here. We already have a question saying, please provide clear and concrete rationale for why operating the gTLD in a closed manner as opposed to an open manner better serves the identified public interest goals. So, this was indeed part of the discussion and that's why I'm saying let's see our concerns, try to put them in a way in the evaluation so that the output will be as good as the input. So, I cannot stress more the importance of



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the feedback, please, on the details because this is initial draft and it is a very high level and in order to be able to detail it, we need as many input as possible. Sorry. Back to you, Nico.

NICOLAS CABALLERO:

Thank you so much again, Egypt. Much appreciated. Before I open the floor again for questions, let me just check that Ian, Australia, you have anything to add before we take some more questions? Are we good? All right. So, so far, I have three requests for the floor. Mr. Feng from China, please go ahead.

GUO FENG:

Thank you, Chair. Guo Feng from China for the record. Actually, I would like to make some comments on this issue. Taking this opportunity, I would like to thank those GAC representatives who have participated in the facilitated dialogue on closed generics, including Egypt, Switzerland, Canada, UK, Australia, and Nigeria. Thanks for your time and energy devoted to this consultation and reporting back to the GAC.

Yes. To me, this issue has public policy implication and as well as to some, I think many GAC members. And in addition, our previous GAC advice has point out the potential of public interest concerns. I won't repeat. And also, on June 1st 2021, we as a GAC also submitted a collective comment to the Board on this particular issue. As we can see that the previous public comments on the issue of closed generics revealed a sharp divergence in the community's views on this topic. There are strongly held views that all closed generics should be allowed, but conversely, some feel that closed generics should not be allowed in any circumstances. So, I think this facilitated dialogue is not so easy.

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From my observation, there are GAC members who are hesitant or cautious to accept the completely free application for closed generics. So, I think the completely free application for closed generics is not a feasible option. As I remember, some of our GAC members including Jorge from Switzerland other GAC members have suggested the desire to avoid extreme views and to find some middle ground. That's what the facilitated dialogues have been doing, trying to do.

So, regarding the draft framework, I think from my observation, there are two parts of it. Part one is the framework of the working approach of the facilitated dialogues. I think the current practice, I think, is good and feasible, and we have good coordinator and also participation from the GAC and other AC and SO. And part two of the framework is the framework of mechanism of the approval process of the closed generics. So, I think with regard to this framework, sorry, I haven't had the chance to read through the whole framework document, but I think in this framework, the GAC should play a role in this framework, in the evaluation of the application of closed generics to ensure the public interest are met.

So, I hope the facilitated dialogue could help us to find a mutually agreeable solution. Perhaps the one small question is that whether the element I mentioned is, the document of the framework has the element I mentioned is whether the GAC could play a role in the evaluation of the application of the closed generics. That's my perhaps comment and a small question. Thank you.

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NICOLAS CABALLERO: Thank you very much, China. Would any of the topic leads like to take that question? Australia, please go ahead.

IAN SHELDON: Ian Sheldon, GAK Australia. Thank you for your comment and question, Guo Feng. I think just to your first point, I would very much agree that this was quite an extraordinary process that the GAC went through. We engaged in this process in good faith. We've invested an extraordinary amount of work over the last six months to get us where we are. And I think it demonstrates a different way to approach policy problems. We've tried something quite different. We've approached the problem in quite a different way. And I would encourage the GAC to continue thinking about new ways to engage with the rest of the community as we try and work through previously intractable issues. So, from my perspective, I think it was a very valuable process to explore and experiment and see how we can move the conversation forward constructively.

I guess on your second point about the suggestion for the GAC continued involvement in the valuation process. I don't believe that's detail we've gotten to as far as the framework goes, but I would certainly encourage you to provide that input into the feedback process and we can incorporate it into the working group. But I'd be very keen to hear thoughts from the others on the working group effort as well.

NICOLAS CABALLERO: Thank you, Australia. And before I give the floor to, I have Iran and France so far, Switzerland, do you have any comments on this or it's something different?

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JORGE CANCIO:

If you allow me, Nico, and perhaps this is due to my long experience with SubPro and just to react shortly on what Guo Feng mentioned. Jorge Cancio, Switzerland, for the record. I think Feng raised a very fair point in which obviously, if these closed generics have to be linked with a public interest goal, this resonates very strongly with the mission we have as governments, public authorities, and as a committee as the GAC. And at least for those of us who have been around for too long, I guess, it was understood all the time that as the closed generics application process will be built on the general application process for all applications, we will have the same intervention possibilities as we will have with any other application.

This means, GAC individual members or group of members can issue a so-called GAC early warning on any application, also on closed generics if they see any issue that really is of concern to them. If this concern is shared by the GAC as a whole, the GAC can always issue a GAC consensus advice on an application. And finally, these are two new possibilities to a certain extent. We are making or we are trying to make sure with the framework that there is a robust public comment process, and there, any interested party, also governments can file in public comments if they don't want to issue an early warning, for instance, and raise the concerns they may have or the comments they may have.

And another novelty in the framework would be a specific objection process based on the requirements for a closed generic, inter alia, the connection with public interest. And governments in my understanding could trigger this objection process as well, at least going to the so-called independent objector, which is an institution that was created already in the last round. So, long story short, even if it's not that explicit in the

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framework, we are operating with the understanding that the GAC and the GAC members will have a plurality of possibilities to intervene in the application process. Thank you.

NICOLAS CABALLERO: Thank you very much. Switzerland. Next, I have Iran and then France and then the Netherlands. Sorry to keep you waiting. Please go ahead, Iran. And before I go into Iran, there's a question from Brazil as well in the chatroom. It says, could a closed generic as a disaster be temporary? And this question is coming from Brazil. We'll take that question later on. Iran, please go ahead.

KAVOUSS ARASTEH: Yes. Thank you very much. First of all, I hope that you have read my comment in the chat that we're asking distinguished Manal to check the microphone because when she speaks, the syllabus are interrupted and broken. And we have not benefited from her good advice, so that should be checked.

NICOLAS CABALLERO: We did, Iran. Thank you.

KAVOUSS ARASTEH: Yeah. Thank you very much. Thanks for that. So, I think the beginning of this meeting, this document was submitted for comments from GAC and the views from the GAC members. Therefore, the distinguish six GAC representatives are kindly and humbly requested to just provide clarification on the question and comment rather than defending the

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content of this. Now, having said that, I would like to thank them very much for the hard work that they have done. When I compare this with the previous document, there is considerable improvement with respect to the previous one that I have commented in the GAC76. If we see people. Remember, the comment.

Mr. Chairman, there are 28 issues almost addressed in this draft. Some of these, they have sub-issues from 1 to 6. So, the number of the issues raised are numerous. For many of them, they are just describing the issues without any answer or that. The first issue, Mr. Chairman, is that we need to understand what we mean by public interest. Yes, in the document, it is referred to global public interest. When you read the global public interest, it says that welfare and well-being. These are different from different countries, different regions and so on so forth. Welfare in country a is different welfare in country b, and well-being in country a is different country b, and so on and so forth. So, the whole issue of public interest is not clear.

I am not referring public interest of the ICANN Board. I'm referring to public interest of this closed generic. Perhaps, Distinguish Chair, it may be useful, maybe, that the six GAC member review the record or recording of the GAC43 in Beijing when issue was discussed and GAC provided the advice saying that closed generic may be used provided that public interest are respected. So, I would like at least to, distinguished GAC member representative, know that what was that discussion around. How they come up with that public interest and what that public interest means?

The second important issue, Chairman, is the timing. In some part of this document, it's mentioned that this issue, if it is finished, first should be

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based on some policy development, whether it is PDP or EPDP or so on and so forth, I don't know. But that is also another big issue that we need to have there. However, if it is completed, they said that it should be completed sometimes before the applicant guidebook is published. So, that means the fate of the publishing of applicant guidebook is based on the completion of this work.

So, there might be two solutions. One solution, wait until it is finished, if it is finished, if it is not returned to Board. And the other option would be that putting a placeholder for the closed generic in applicant guidebook not to delay the publication of that because the second round should not be started before the applicant guidebook is available few months before they start. Because many people, they need to read that applicant guide book. Otherwise, they would be totally confused of the situation. All of these or most of these questions raised are legitimate, but requires careful considerations and discussions. And some of them, there are no answer at all at this stage. And that requires a lot of works.

For instance, I give one simple example based on my experience. I had participated in the selection of the panelists for IRT. That took nine months. So, if you go to the evaluation panel, selection of evaluation panel, qualification of evaluation panel is a time consuming and very, very difficult. ICANN employed a consultant for that selection of the panelists for that particular IRT. But for this one, not there. What would happen? And the work of that need to be carefully discuss whether that type of consultancy was a good one or should be improved.

So, Chairman, I think I cannot make more suggestions at this stage but because this document was received on 8th of June, there is a little time to discuss that. But I have read that two times, and I put sub yellow mark

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on many, many pages, 10 pages, and then maybe based on that, some preliminary comment could be prepared either shared at this meeting or sent to yourself or to anyone else or to the group for consideration. But this is very, very difficult and so on. By the way, by the way, we should not forget what we discussed at GAC76, that any decision on this should be by full agreement of GAC. It's not anything different of that. So, I think that distinguished colleagues of the representative can be take that into account.

And 15th of July seems to be very, very short time for answer, because we reach 15th of July very soon. So, I don't know whether people would be. And the way that we provide our comments whether the individual comments or group comments, or I don't know, several other comments, but that is a very time consuming with very short period to have that one. And I don't think that the way that we work, I mean, the government is working, that have many other obligations. I don't know whether we will be able to provide a useful comment to our GAC representatives to that group to raise during the second or not second, subsequent discussion on this. But it is very complicated and complex issues, and many questions are totally open yet. Thank you.

NICOLAS CABALLERO:

Thank you, Iran. Please try to keep it brief, because to tell the truth, I got completely lost. I don't know if that was a comment, a question, or three questions or 15 comments. I totally lost track. I don't know if that was a question to one of the GAC representatives who took part in the facilitated dialogue or a question about the draft framework or something regarding the language, including the draft framework, I got totally-- Could you please get to the point? Because I have France, I have



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the Netherlands, I have the European Commission and I have a reply from Switzerland in the chat room saying, "not sure I understand the assertion that GAC representatives in the dialogue are defending anything. Hope we stay courteous and kind." So, with that, any other? Yes, Canada. Go ahead, please.

JASON MERRITT:

Thank you. Thanks, Nico. Mr. Chairman, I can try to go through some of that comments, questions. I think around defining public interest, it's definitely a very difficult thing to do, especially when you cascade this out across a number of governments and communities and things like that. I think, and I stand to be corrected, some of the onus around public interest was meant to be put on a potential applicant to define that, sell their case as to what public interest they're serving. And then cascade that down into the review panel that would have some leeway in evaluating that public interest as it was presented in the application. But it is a difficult subject matter to address.

I think the framework is in a lot of ways intended to be quite high level and not so far into the weeds around specific policy direction. It was intended to be a guiding framework and not intended to spell out very specific policy advice that may take place in a future policy process. So, I think that's perhaps why it is a bit thin on details. I think that there's enough sentiment around the community where this issue of closed generic shouldn't delay the next round or any further round for gTLDs. Understanding that the timelines have been quite a moving target since we've been doing this. We've often been really backed up against in terms of trying to produce something. And so, I think that to that point,

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there's some sentiment there that we would rather have something done well and have it not delay something rather than force an issue.

And to hammer the point home again, the full agreement of the GAC will be necessary again on anything that comes out after the comment period to move forward with this. So, I think that's a point to really reiterate. And just to extend the plea again, we would like as many comments as possible on this. Whether we decide as a GAC collectively to issue something, that could be a discussion that we could have as a GAC, but also that does not prevent or should dissuade any individual government or organization from also participating in the comment process as this thus unfolds. So, I think I'll leave it at that.

NICOLAS CABALLERO:

Thank you, Canada. I have France. Please, Jonas, go ahead.

JONAS ROULE:

Jonas Roule for France. I will take the floor in French. First of all, please allow me to greet my GAC colleagues as well as their hard work on closed generics. It is far from easy. I wanted to say a few general words on closed generics. Of course, any innovation carries a level of risk. And I think we need to be audacious. However, when the risk is greater than the benefit, then balance is not there. Technical progress besides is not necessarily aligned with the progress for all. We said many times that closed generics do not contribute to the principle of an open internet and may generate on anti-competitive practices on the market. We were expecting answers of the working group, especially on the following. To what and would a closed generic serve the public interest than an open generic?

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This is the question that is supposed to be well directed to applicants on Page 4. But of course, the applicants are not the ones who should define the framework. We should rather find a common ground in the facilitated dialogue and this should not depend on the candidates. We rather think that we should focus on what actually is related to global public interest, such as supporting applications from underserved regions in the next round, the opening of gTLDs or universal acceptance. Lastly, if the work needs to continue, this should not be done precipitously. It would not be possible to isolate this question from the next round and we should take enough time to finish this debate about closed generics. Thank you.

NICOLAS CABALLERO:

Any of the topic leads who would like to address? Nigeria, please, go ahead.

RONKE ADENIYI:

Thank you, France. I'm going to speak in English. Like Jason did say, this issue of public interest was quite sticky. And I'm going to reiterate. I like the fact that France is saying we should be looking at areas, questions or issues relating to the underserved region, universal acceptance when it comes to the next round. But please note, yes, we did consider this. This is a high-level framework, we would keep reiterating because what it is the mandate given to us was from this level, once we're able to come up with a framework, it will go through a policy development process. But the most important and fundamental thing for this facilitated dialogue is let's even have a framework.

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And in the course of discussing what is public interest. If you look at the draft framework, we did go beyond ICANN's previous definition for public interest because we understand, I hope Iran can hear, we understand that what serves as public interest in Nigeria for instance is not the same as what is public interest in France. We did come to that and we did understand that bringing it to GAC, these issues would come up.

Then we did also say if you look at the table, there's diversity of representativeness. We understand that the level of awareness and response to new rounds the last time was not balanced. And so, there is need for us to have an opportunity to present something that'll lead to like inclusiveness, more people coming in. So, that issue of underserved regions was considered on that, so to speak, public interest. And I'm sure, well, I want to say that when we drill down to the policy development process, these things will be fine-tuned or explicitly defined.

Then on universal acceptance, yes, we did have this conversation during the course of the six months, especially relating to languages. IDN, it came up. I come from a developing nation and I understand what it means to have local content or ability to have more people use the internet or even feel comfortable to want to assess that. So, of course, when you look at how to address those issues, you're serving public interest as well. So, these little things were discussed on the table, but like I did say, this is meant to be high level, then we now break it down to the policy development process.

Please recall, when Jason was making the presentation, one of the major points that was highlighted was should we be unable to reach a consensus, it goes back to the Board. But we are hoping that's why we are appealing to everybody to please look at it. We understand that the

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timelines are short, but please, this is quite important and your feedback is essential. Thank you.

NICOLAS CABALLERO:

Thank you very much, Nigeria. I have the Netherlands and then the European Commission, and then India and then I'm afraid we're going to have to stop it there. Netherlands, Alisa, please go ahead.

ALISA HEAVER:

Thank you, Mr. Chair. First, I would like to thank you, the group, for all your work in this process in the draft framework. As we received the document in a rather late stage, we're still as the Netherlands forming our opinion on this framework. Though at this point in time, I do have a question on the substance of the document. The current draft describes a number of conditions that should be met before one can attain the closed generic TLD. So, let's say an applicant meets these criteria. In the contracting and post-delegation section, paragraph or clause 28 says that "ICANN will hold the registry operator accountable for carrying out its commitments".

I have two questions about this paragraph. First, where it said "ICANN", could you or others be more specific on who is meant? Is that, for example, ICANN Compliance or the Board or any other body in ICANN. And second, would you envision any form for redress in case those original commitments of the registry are not met? So, for example, in the case of consistent non-compliance, could the special status of the closed generic be removed and, in the end, the TLD would be open again or maybe even revoked? I'll be interested in hearing your thoughts on this. Thanks.

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NICOLAS CABALLERO: Thank you, Netherlands. And if I understood correctly, your questions are for the GAC representatives that took part in the facility to dialogue. Is that correct? Thank you. Nigel, please, UK.

NIGEL HICKSON: Yes, very briefly indeed because I think we need to hear from the other audience members, so to speak. But yes, absolutely. So, an applicant comes along, they say they apply, they outline why they think their application is in the public interest, it's evaluated, it's subject to the normal SubPro processes, it's subject to GAC early warning, etc. But at the end of the day, perhaps, the application gets through, it meets the conditions.

It then has to contract with ICANN, of course, it will have a contract with ICANN, under which the specificities of their application are made clear. And if they're closed generic, then if an applicant goes away from those conditions it said it would meet, then it will be for ICANN Compliance to revoke the name. If the name was revoked because the contract was not adhered to, then of course it wouldn't go into an open status. It would then just not be a name that's subject to this process anymore. Thanks.

NICOLAS CABALLERO: Thank you, UK. I have the European Commission next. Esteve, please go ahead.

ESTEVE SANZ: Thank you so much. Esteve speaking on behalf of the Commission. First of all, to reiterate how grateful we are as part of the GAC, but I think as a

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GAC community of the work that the GAC representatives have been doing in this group. We've taken a look at the framework. It arrived a bit late, but nonetheless, we have started forming our first impressions. I will share them with you very quickly.

The first thing to say is that this is a new process, but it's dealing with an extremely important thing that can really change the perception that users have of the internet, it can affect ICANN's image, it can potentially create monopolies, it can potentially affect the openness of the Internet. So, we're confronting a new process, very difficult to manage. With critical questions on a concept that, I think it's clear that we are all a bit uncomfortable with in general.

When we go into the framework with that idea in mind, the first thing that we find is a series of tremendous efforts, very good, creative efforts to solve on at the process level something that remains to be defined at this general level, like concerns about the competition implications, concerns about the open internet, etc. The framework perhaps moved a bit too fast into these solutions in a way that at least for us, and again, it's first impressions, it's very good to have these discussions, it makes us difficult to be convinced that this is a framework that allows us to be comfortable in going into more discussions, because these general concerns that we all have do not seem to be addressed.

When we move to the concrete elements of the framework, this we can be discussing them here and we appreciate having a bit more time to provide written comments, but indeed, as other speakers have said, France, etc., there are issues related to the very definition of public interest, issues related to how are we going to choose this panel suitable qualified individuals. We understand that this is for the policy process,

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but we need reassurance that this is going to be done properly because the concept is so blurred that depending who you put in this panel, then you can get one consequence or another.

So, in general, we really appreciate the effort. It's a very important effort, but we have to be aware that we are dealing with a huge, huge concept that might affect the Internet as such. And for that, we remain a bit skeptical that we can progress quickly enough on this discussion, as we have seen before. But we remain, of course, open to discussions and further for changes in the framework as we work towards a final document. Thank you very much.

NICOLAS CABALLERO: Thank you, Esteve. Thank you, European Commission, for your comments. I understand you have no direct questions, correct, Esteve?

ESTEVE SANZ: Not for the moment, but they will come for sure as we progress in this discussion. Thank you.

NICOLAS CABALLERO: Oh, that's for sure. Thank you again, Esteve. So, let me give the floor to India and for the sake of time please be brief. India, go ahead please.

T. SANTHOSH: Yeah. Thank you, Mr. Chair. This is T Santhosh for the record. So, the point which was raised by the working group is about the GAC early warnings. Now I would like to know how the GAC early warnings are



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provided to the GAC members over here. It has been mentioned that there are 185 countries as well as 35 observers who are part of this GAC. How they will receive? What is the string? I believe the GAC members over here understand what is the string. So, for an example, string is dot disaster as mentioned by Nigel. So, how a string which is coming for closed generics is available with the GAC members.

So, my suggestion would be that it could come as an email. It could come as an email to each one of the GAC members. Why? Because during 2012 period, one has to go to the portal of GNSO to identify 1,400 top-level domains. I hope that this is agreeable with most of the GAC members. So, there are 185 countries who are there in this GAC. So, each string has to come as an email to the GAC members over here. Thank you, Mr. Chair.

NICOLAS CABALLERO:

Thank you very much for the suggestion. We will certainly take into account. Before I actually closed the session because we're at the top of the hour, is there anything the topic leads would like to mention? By the way, please know that the facilitated dialogue group is holding an open session tomorrow at 10:45 local time to further review the draft framework and receive input, questions and questions from community members. GAC members are welcome to join in person or via Zoom. And the link is in the chat room. Egypt, please, go ahead.

MANAL ISMAIL:

Yes, very briefly and we can take this on the mailing list. I think we need to see how we are going to coordinate our efforts. Are we going to depend on individual GAC members submitting their own comments only or

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we're going to coordinate collective GAC input? And if so, who will be the lead on this? Because frankly, I don't think any one of us would be appropriate to lead the coordination of the comments on the draft we were part of drafting. So, just food for thought for our discussion on the mailing list. Thank you, Nico.

NICOLAS CABALLERO:

Thank you very much. So, we're closing the session. Sorry for the extra time. We'll have a 30-minute break. Well, actually 25-minute break and we'll reconvene at 3:30. Thank you so much.

**[END OF TRANSCRIPTION]**