ICANN78 | AGM – GAC Discussion New gTLD Prog Next Round (1 of 2)
Tuesday, October 24, 2023 – 8:30 to 9:30 HAM

GULTEN TEPE OKSUZOGLU: Hello, and welcome to the ICANN78 GAC Discussion on New gTLD Program Next Round Session being held on Tuesday, 24th of October at 6:30 UTC. My name is Gulten Tepe Oksuzoglu, and I'm the remote participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior.

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name. With that, I will hand the floor over to GAC chair, Nicholas Caballero. Over to you, Nico.

NICHOLAS CABALLERO: Thank you very much, Gulten. Good morning and good afternoon and good evening for those online. Yeah, I'll pause a second so that people can take their seats. Welcome again. I hope you had a good time yesterday, last night and that you had the chance to try the local food and the local drinks. And of course, I'm referring to coffee and tea. No pan intended.

So, welcome again to the third session. This is GAG Discussion on Next gTLD Program Next round, the first of two sessions. We're going to be discussing very interesting and sensitive topics. So let me give you a short review or a short overview of the agenda for today. Basically, we're going to be covering recent developments, and then we'll dive in and discuss PDP working group recommendations, the GAC position, the Board position, and GAC potential actions in that regard. And then we'll open the floor for questions and open, frank, and straightforward discussion. And if we have enough time, which I doubt, but anyways, we might be able to do some AOB right at the end.

So, I have the privilege of sharing this session with Jason Merritt, topic lead from Canada, Jorge Cancio, topic lead from Switzerland, my dear vice chair, Nigel Hickson from the United Kingdom, and we also have the privilege of having Rose KennyBirch from the United Kingdom as well. So, welcome. Welcome everyone again. And with that, let me give the floor to our topic leads, Jorge Cancio, and Jason Merritt, Switzerland and Canada. Go ahead, please.

JASON MERRITT: Thank you very much. Good morning, everyone. So, we have the privilege of starting right into it bright and early on everyone's favorite topic, SubPro. Very dense and top, broad topic that covers everything that we have interest in So, we can go to the next slide if we could, please.

So, we're just going to start with a little bit of background to get people acclimated as to where we are situated today. So, you have to go back to around ICANN I guess it would be 76 around March, where really you have the start of the launch of starting to implement the recommendations out of this SubPro final report. And then what you have there is the Board approving all of the recommendations, the 98 recommendations contained in the final report, and leaving about 38 that were still pending.

So, in that interim period, between then and now, the implementation plan launched, the implementation review team has launched, and they've been going through these recommendations. And the Board and the GNSO Council have been working to approve intermittently these 38 recommendations that were pending. And so, that brings us up to about September of this year where we have the pending outputs coming more up to speed and more of them getting approved as we come into this meeting here in Hamburg.

So, if we remember, there were about 7 topics broadly that the GAC had identified of those 38 pending recommendations that we had considered very important to us as a GAC. And so, they're listed here under advice to the Board and issues of importance that we had issued

at the last meeting, ICANN77. So, those topics were predictability, PICs, RVCs, applicant support, auctions. And then issues of importance around closed generics, again PICs and RVCs, and GAC Consensus Advice and early warnings. And the GAC had some engagement with the Board recently around the end of September on some of these and had further discussions on some of these items that were still open.

So, essentially, what you have bringing us up to date more or less is that the GNSO Council and the Board-- GNSO Council had issued some further advice on some of these pending recommendations, and the Board had ultimately adopted 20 more of those 38 recommendations. They had left 7 not adopted, and 13 still pending. So quite a bit of progress was made since from March until now in terms of approving pending recommendations.

You have on September 10th an updated scorecard that was produced. That sort of is a nice table that indicates which recommendations are still pending, which ones have been approved, which ones were not, and a rationale which I have found very helpful myself. And I encourage people to kind of look at that, the detail on some of those things. There was also the Board had published scorecards in advance of this meeting on our previous advice from the last meeting at ICANN77 and on issues of importance.

So, that's sort of just a brief introduction, little refresher as to where we are today. I've breezed through a few of those slides, but essentially where we've come from back in March, we're having the SubPro final report, the recommendations approved by the Board, some pending recommendations, and then some intersession work that had been

able to continue t, approve some of those recommendations. So, what we're going to do is, my colleague, Jorge, and I are going to go through some of those topics that the GAC had flagged for issues of importance or previous advice from the last meeting, those 7 topics, and kind of go over where we are and what the decision points were to date.

JORGE CANCIO: Just a little compliment to that information and just for you to know how we are structuring the two sessions we have on new gTLDs. So, today, we are concentrating on these open issues, let's say, between the GAC and the Board and see where we are. And tomorrow in the second session on new gTLDs, we will go deeper into what has happened, in the meantime, with closed generics. I guess you are all eager to have a discussion on that. So, we will update you and we will have a discussion and see whether there is any communicable language needed. Another topic we will look into tomorrow is the GGP, this process regarding the applicant support program that is ongoing, and then we will have also an update on where we are.

And finally, tomorrow also Jason who is doing so many things well inform us about what the Implementation Review Team is at in implementing the policy. But today, we wanted to really focus on important topics of policy that are still open, are still pending and where we are having a discussion that evolves over time with the Board and also with the GNSO council. So, with this, I give it back to you. Thank you.

JASON MERRITT: Thank you, Jorge. Yeah. That is important. That's a good point how we've structured the two sessions. We've got quite a lot of information to cover on SubPro. So, thank you for that. So, we can go to the next slide if possible. So, the first topic that we've identified here to go over and discuss with you guys is actually topic 2, that's just how they're listed in the recommendations, is predictability.

So, the topic itself, my understanding, and I think how to characterize it and simply is that you have an Applicant Guidebook that will be produced, and that will guide people into the terms and conditions, so to speak, on how to navigate the new gTLD program. And throughout the next round, you might have things that come up that aren't necessarily covered within the Applicant Guidebook or need additional guidance or things like that. And so, the recommendation from the SubPro final report had basically said that we need a predictability framework that establishes this transparent, fair process, procedural guidelines to be predictable in how to manage these issues that might come up outside of the normal processes.

And so, to do that, the recommendation was to form a standing committee, and they've called it the SPIRT, the Standing Predictability Implementation Review Team. And so, that body would be responsible for reviewing these potential issues deciding what level of new policy or new guidelines or new different approaches to what needs to be done. And the GAC advice to that was, or the Gac's view and the advice to the Board on that was that this SPIRT needs to ensure that all the ICANN communities have participation, the ability to participate on equal footing.

And so, because this is the GNSO Council would ultimately be responsible for the oversight of the SPIRT and ultimately reviewing the recommendations and leading this or have responsibility over it, we wanted to just ensure as a GAC that GAC members could participate as well as others across the community and be a part of those discussions should we have an interest in that. So, that's where what this was and what the GAC advice was on that.

And so, the discussions that we had had back the previous meeting at ICANN77 with the Board on this topic and as well as the ultimate Board view that came out of this and result was that the Board had approved the recommendations on Topic 2 on the predictability in the SPIRT. And so, what we've come out of this with is a clear indication that this would be a cross-community effort. Involvement would be spread across the community.   In particular, the GAC would have an opportunity to participate in a meaningful way on equal footing, should there be a topic of interest and should there be a reason to and an interest to. And so, I think that that's a positive development on this particular topic.

And so, I may have glossed over some things, but just tried to couch this in a way know, where we are at now and how we got here. And so, how we're going to structure this session is we're going to open it up now. Any reactions from the GAC to the Board decision? Any questions or follow up? But before I do that, maybe, Jorge, if I've missed anything or you want if I've glossed over, feel free to chime in. If not, we can just pause on this topic for a moment and open it up to the GAC.

JORGE CANCIO: Thank you, Jason. I think there's not very much to add we're trying to be as structured as possible. As far as we know, this SPIRT is still being in the process of being chartered by the GNSO. And we have received, at least, verbal assurances from the GNSO so that they are open to correspond to address the goal of our advice to the Board. So, in this sense, I think there's a good basis for going forward. But, yeah, maybe, other colleagues wish to intervene on this.

GULTEN TEPE OKSUZOGLU: Thank you, Jorge. We have Iran on the queue.

JASON MERRITT: Iran, go ahead, please.

KAVOUSS ARASTEH: Yeah. Thank you. Good morning to all. Good morning chair of GAC. Good morning Jason and Jorge.   Just on the equal footing, our experience in the past was that in 2014, when we wanted to talk about the transition of stewardship, we had a function, there was participation of GAC. What they include that two members from GAC and five or more than from others. At that time, we said today head that, no, we don't participate with two. We want to have minimum five and then equal to five, some others. So, this equal footing is a factor element to be carefully followed, and we need to implement that in actual equal footing.

And we had this experience again in the phase 1 of the EPDP that we had the nine from nine groups as the GAC numbers were not sufficiently

NICOLAS CABALLERO: Thank you very much, Iran. So again, and these are two open questions for the floor and for those online as well. Any GAC reactions to Board decision? That's the first one. The second one being, is there a need for GAC follow-up action and/or any messages to be shared during the Board-GAC bilateral later on today? So, any reactions from the floor or online?

GULTEN TEPE OKSUZOGLU: Thank you, Nico. We have a queue lined up.

NICOLAS CABALLERO: Okay. I see the European Commission, and then China. European Commission, go ahead, please.

MARTINA BARBERO: Thank you very much, Nico. This is Martina, European Commission for the record. And thank you very much to the topic leads. This is very well-structured presentation and very helpful. As I have a newcomer question, and I apologize in advance if the answer is straightforward, but is this a new mechanism that did not exist in the previous round, or how was this topic dealt with, this issue of predictability dealt with in the previous round? And if it's a new mechanism, if you can share your thoughts about what do you expect? Is it because there was a GAC that

we're trying to implement something new or what is, the outcome that we expect here in terms of improvement with respect to what happened earlier? Thank you.

JASON MERRITT: Thank you for that. That's a great question. There are no simple questions on SubPro, and probably no simple answers either. To be to be very frank and honest with you, I don't know what the mechanism was in the first round in the past. Jorge probably has some insight into that. What I can say is that for this round and this what we're talking about now, this would be a new mechanism that is being set up and put in place and being chartered by the GNSO. But in terms of addressing whether or not there was a GAC or how we've come to this, my good friend Jorge can probably shed some light on that.

JORGE CANCIO: So, thank you very much. And also, thank you to Kavouss for the point you made before, which I think we take on Board. On your question, this is also Jeff Neuman, our GNSO liaison to the guy who has written in the chat, there was no such mechanism. It was a very different situation back then and with policy recommendations that were much more short, let's say. And now we have much broader, much longer, more detailed policy recommendations from the GNSO. And let's say, last round, as many things were unknown to a certain extent because it was the first time such a big round was made, there was a big need of improvising things. And the GAC, of course, had also role in that with advice being delivered once the round began to be unfolded.

And so, I think the really, the spirit of the SPIRT is to try to modulate that to have a channel to treat such not known issues that may arise during the implementation during the unfolding of the next big round.

NICOLAS CABALLERO: Thank you, Switzerland. European Commission, are we okay? I have China and then the Netherlands and then India. China, go ahead, please.

GUO FENG: Guo Feng from China for the record. I would like to thank Jorge and Jason for taking the lead of this topic and give us informative presentation. Just some thoughts around this Topic 2, predictability. So, looking at this, the first question come to my mind is, I'm wondering, if there is more details about this review mechanism, SPIRT. Perhaps, if someone can offer us more words about it, like how many members will this SPIRT have and the rules of procedures. I don't know.

And the second is reactions to actually to the two questions up on the screen. When I look at these two questions, the first GAC reactions and second, is there need for the GAC follow-up action? So, I think we've answered these two questions. So, we need to think about-- we need to assess the impact of this SPIRT on our GAC procedure. Whether it has a significant influence or an impact on our consultation process. And then we can react to the Board decision. Thank you.

NICOLAS CABALLERO: Thank you, China. Could you please repeat your questions?

GUO FENG: My question is, is there any more details about this SPIRT?

JASON MERRITT: No. That's a great question. Thank you for that. I think where we're at this point is because this is housed within the GNSO Council, the responsibility of standing this up and really being the functioning piece behind this. They're still in the process of chartering this and still in the process of working out the details. I guess to answer your question, there's not a whole lot of details on the SPIRT right now, but it's being worked on. And it's also something that we're tracking within the IRT that's going on as well to see where the developments are there.

So as things evolve on this and as things get a little bit more clearer, we can certainly report back to the GAC and fill in the blanks and the details of how things are proceeding with this. But I think that's where it stands right now is that it's we've got some assurances and verbal communication, like Jorge had said, and just good discussions that we had had on this topic. And it's just now working its way through implementation and working its way into practice. So, I hope that helps.

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

MARCO HOGEWONING: Thank you, Mr. Chairman. Good morning, colleagues. I'd like to come back to what was mentioned regarding equal footing, and maybe one of the people closer involved in these processes can explain to me what perspective do we need to take there. Is that equal footing in a sense from the ICANN community's organization, I.E, x number of representatives from each AC/SO or otherwise we should look into that. And in that SPIRT, also to address some of the comments made by the previous speakers, I think before we decide on a number that we want to have in this group. We might also want to do a quick poll whether there are enough volunteers to fill those sheets and think about our own efficiency before we send a massive amount of people into this process or claim a lot of seats and then have to go back borrow and steal resources from everybody. Thank you.

NICOLAS CABALLERO: Very good point, Netherlands. Thank you. Jorge, Jason? Nigel? Rose? Go ahead, UK.

NIGEL HICKSON: Yeah. Yes. Good morning. Nigel Hickson, UK GAC. I'll be very quick. I think it's a good point by the Netherlands as our colleague from the GNSO, Jeff, put in the chat. He's the liaison as this has been explained, and the GNSO is still setting this up. Clearly, it's important that the GAC is represented. And as I understand, this isn't a policy development process. It's SPIRT. It's a body, if you like, that can be assembled at short notice to resolve particular issues, which are a mix of process and implementation or whatever. So, clearly, GAC needs to be represented on it, and I don't think there's any argument on that. And in terms of

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the substance of involvement, I guess we need to wait and see the recommendations that are coming out of the GNSO on this.

NICOLAS CABALLERO: Thank you, UK. I have India. Go ahead, please.

SUSHIL PAL: Thank you, Chair. This is Sushil. Maybe a similar question. One, whether the representation or the constitution of the SPIRT, is it adequately represented by all of the bodies of the ICANN? And second one is, has GAC any sense as to when would the draft application guidebook would be available for the public? Thank you.

JASOM MERRITT: Sure. Thanks very much. I think the draft guidebook is being worked on right now as part of the Implementation Review Team, the IRT, the SubPro IRT. So, we're going to talk about the IRT and get a presentation and get into those details at the next SubPro session, I believe tomorrow or Thursday. But essentially, the organization is working through developing the guidebook sometime a year, 18 months from now. There are timelines that we can go over that have been set and milestones and things like that. But it's being worked on, I guess, is the is the short answer, and we've been going through it. Thanks.

NICOLAS CABALLERO: Thank you very much, Canada. Thank you, India. So. for the sake of time, we need to move on. So, if we can go to the next slide, please.

JORGE CANCIO: Yes. Thank you. Now it's my turn to introduce this. And we have 31 minutes and still four topics to discuss. So, I guess we have to devote like eight minutes at most to each of the topics. So, we'll cut it short. You know that we had this long discussion about the language in the old Applicant Guidebook on creating a strong presumption of GAC consensus advice, against or on an application creating a strong presumption for the ICANN Board that the application should not be approved. In the ICANN77 communique, we had language under issues of importance from the GAC to the Board. It wasn't GAC Consensus Advice because we have different opinions in the room.

Basically, we received a reaction from the Board saying that ICANN bylaws action that relates to GAC Consensus Advice and details all relevant procedures concerning such GAC consensus advice. And that that section of the ICANN bylaws determines how the Board engages with the GAC consensus advice. And therefore, they are of the opinion that no different language as it was included in the 2012 Applicant Guidebook should be included in the future Applicant Guidebook. So, the Board moved to adopt the recommendation from the GNSO. And they noted that this does not, in any way, prejudice or impacts the processes regarding Board consideration of GAC Consensus Advice detailed in the bylaws.

So, basically, this is what we have from the Board now. There's a decision approving that recommendation, eliminating that previous text from the old Applicant Guidebook. And now the question is really for you for the GAC to see whether there are any reactions to this and

whether we need to have any follow up with the Board or messages that we should share with the Board in the bilateral we have today, I think.

NICOLAS CABALLERO: Thank you, Switzerland. I have Iran and then Brazil. Iran, go ahead, please.

KAVOUSS ARASTEH: Thank you very much, Chair. Thank you, Jorge. If you all remember in one of the meetings that we have with the Board, I mentioned that there is a possibility to slightly soften the language, not saying that a strong presumption but later on, there was no other actions and I mentioned again.

So, I am of the opinion that still we need to maintain something in the Applicant Guidebook along the line of the following may trigger instead of a strong presumption, may trigger presumption, and so on and so forth. I can provide you later on the language maybe in some 10 minutes. I'm looking for my paper to find this out. But I think I am not very much in favor of total deletion of that sentence because it may because this is GAC Consensus Advice on the Early Warning, we should not ignore that. You remember there's so much time we have spent in the PDP to support our proposal. So, I don't think that we could release it so simply. Thank you.

NICOLAS CABALLERO: Thank you very much, Iran. And that's something to take into account, certainly for the communique drafting. Thank you, Iran. I have India.

I'm sorry. I'm sorry. I'm sorry. It's Brazil. I'm sorry. I'm sorry. Luciano, go ahead.

LUCIANO MAZZA: Thank you, Nico. Luciano here. Just, first of all, I wanted to thank our colleagues that took part in that interaction with the Board on this issue. And I think we had two meetings, and I think our colleagues engaged in a fruitful conversation with members of the Board. I think there are two dimensions of discussion. One's about formality and the other on substance.

I think it's a bit striking that a decision was taken so quickly on this topic. We're normally talking about processes that take ages. And then suddenly on this one, from one meeting to the other, there was already a decision to approve the recommendation presented by the working group. I understand that there was just this exchange of opinions and this conversation with GAC members on two occasions. I think, surprising that between one meeting and the second meeting, the recommendation was approved.

So, I think there are good arguments that the Board presents. The arguments presented by the Board are not exactly the same presented by the working group, but I think they kind of complement each other. I believe it's a very legalistic approach. I agree with Iran. I think it's possible as you had suggested during the previous meeting to find some alternative language on this. And I think that's beyond the legal perspective. There's a more political dimension to this. I think that the Applicant Guidebook had a political message on this and that is completely erased now.

When we go through it, and I thank the supporting team for the very detailed note on the meeting had in 20th September. And in addition to the arguments that the Board present on this topic, there's a mention also that there is nowadays case law made by the Independent Review Procedures that establish how ICANN may or may not behave in relation to GAC advice. So, I think it's in addition to the bylaws, we now have to be aware of where we are in terms of this case law or this jurisprudence that has been developed. And I know there's consolidated anywhere.

My feeling is that, in spite of all the discussions we had on those topics, we may end up in a situation where the GAC is worse off in the next round of the program than it was in 2012. And we'll probably face similar situation. We have thousands of applications. None of them is a matter of concern. Then when we have one, there's sensitive. We wind up a very difficult and painful process. And at the end, the application will move ahead.

And I think the whole SPIRT of this process, well, though, the application must proceed. Application must proceed. I think that shouldn't be the SPIRT. I think we are somehow relinquishing part of our prerogatives on this. I think it's important topic, and I agree with Iran, there were alternatives to be considered in relation to this language. And it does not seem to Brazil that the Board has fully engaged in the possibility of finding those alternatives.

So, considering that the recommendation has already been approved. I don't know to what extent we are in a position to make any kind of productive comments on this, but I think it'd be warranted to pass a message of, let's say, questioning a little bit how the process happened

in the end. And I think there is a concern of more substance, as I said, about the balance of prerogatives of the institution within the ICANN system. And I think as I said, I think the GAC would be worse off than it was in the previous round of applications. Thank you.

NICOLAS CABALLERO: Thank you for that, Brazil. Before I give the floor to India and then to the United States.   Any reactions?   Anything you would like to comment? All right. So, let's go ahead with India, and then I have the United States.

T. SANTHOSH: Good morning, good afternoon, and good evening, colleagues. This is Santosh for the record. Now on the recommendation of GAC advice early warning, which is very important to GAC. We, as in GAC has kept a close watch on the discussions thus far and the deliberations which has been happening here. And hope that the community together can come into a consensus-based language, which will be providing adequate financial and non-financial support to the needy applicants in future, while also we as a GAC should be mindful of the fact that our advice, that is GAC's advice should not be diluted, but must be prevented as laid down in the ICANN bylaws. Thank you.

NICOLAS CABALLERO: Thank you, India. USA, please.

SUSAN CHALMERS: Yes. Thank you, Chair. So, the United States does agree with the Board's decision on this topic, and we believe it was the right one. The rationale was sound for the decision and that rationale was explained to us quite clearly over the course of those two meetings. But with that said, as our colleague from Brazil notes, beyond the legal dimensions of this issue, there is also a political dimension, and we are sensitive to that. So going forward, I wonder if, there is opportunity to further discuss that dimension, and see if we can find a path forward so that we are not, as my colleague from Brazil notes, in a worse off position. Thank you.

NICOLAS CABALLERO: Thank you, US. I have Iran. Go ahead, please.

KAVOUSS ARASTEH: Thank you, Chair. I've put the text that I have refer to as soften the language in the chat. Could you kindly read that for the colleagues? Thank you.

NICOLAS CABALLERO: Thank you, Iran. I'm trying to find the text. Yeah. Switzerland, please read it. Thank you.

JORGE CANCIO: Just to react to Kavouss, the text is proposing in the chat reads "the GAC Consensus Advice on early warning could trigger the presumption for ICANN Board that the application may not be approved, provided that

valid rationale is with such advice". So, I think that's one input to this discussion. As I said before, unfortunately, we have still many other topics to discuss in this session. We only have 19 minutes.

I think just to react to Brazil, to US, to India, to Iran, to others on this. We see that we have different, sensitivities in the room. At the same time, I feel that there is some common ground on this political dimension and to pass a message to the Board. So, there is possibly an opportunity to use the break and to get perhaps together those interested to work out some common messages for the session with the Board. And in any case, also for the communique language, be it in any of the sections. So, with that, I think we would need to continue running a little bit. And again, it seems that new gTLDs requires longer sessions than 60 minutes.

NICOLAS CABALLERO: Absolutely. Thank you so much, Switzerland, and thank you, Brazil, India, United States, and everybody who collaborated. Now for the sake of time, again, I think we're getting a little bit ahead of ourselves. That's something maybe to discuss during the communique drafting or as Switzerland pointed out, maybe you can get together during the coffee break and start drafting some possible language for later on. Again, for the sake of time, let's move to the next, slide, please. Gulten. Thank you.

JASON MERRITT: Okay. Thank you. So, we'll move on Topic 9, which was PICs and RVCs. And we're going to have to power through a few of these because we

want to at least be able touch on the topics and get people acclimated to some of the discussions and how we're going to situate some of these things going forward for the rest of the meeting.

So, Topic 9, PICs and RVCs. Some of the key takeaways from the SubPro PDP working group final report would be that mandatory public interest commitments, must be included in the registry agreements for gTLDs for subsequent procedures. And PICs and RVCs must also be enforceable through those contracts. So, I think if I had to boil it down to some of the key components of that is that they must be included and they must be enforceable. So, that's where the position stood on from the working group.

So, the GAC had issued advice in the last communique reiterating that position that they must be enforceable through these clear contractual obligations and that that was the collective position of ours on this. And the Board's view on that was that they had accepted that advice in terms of that specific component of it. So, there within Topic 9, there are several subtopics or subcomponents of it. A lot of them are still being discussed as pending. And I think what the commitment out of that, the other recommendations as part of the PICs and RVCs topic that remain pending are still under discussion by the Board and requiring a bit of GNSO council clarification and cross-community engagement on the issue going forward.

So, I think the message there is that some of it was approved, the advice was taken in a positive way and that the rest of the information on this topic is going to be discussed as part of the community and trying to work through those sticking points going forward. So, apologies that

that's a real breeze through this, but I think that covers it. And we can open the discussion to see any reactions from the decision or any follow-up messages or any questions.

NICOLAS CABALLERO: Denmark, go ahead, please.

FINN PETERSEN: Thank you. Finn Petersen from Denmark. Just a question. I seems to remember that the audit one time said there might be a need for change of the bylaws in order that the PICs or RVCs are enforceable. Is that still on the agenda or what is the status of those consideration by the Board? Have you any information of that?

JASON MERRITT: Yeah. I do remember some of that discussion, and I'm not sure where that ultimately ended up landing, other than that they are still considering those all options to address those pending recommendations. So, I don't think that there's been any decision points on that yet, and I think they're still working through how to best do this in an efficient and appropriate way.

NICOLAS CABALLERO: And I have the USA. Susan, please go ahead.

SUSAN CHALMERS: Yes. Thank you. Just to follow up on that, Jason, my question was about the question to the GAC members to discuss GAC reactions to the Board decision. I don't think there has been a Board decision on this ad. Is that correct? I'm just confused by that question. And I just wanted to say that it was really helpful yesterday, during our bilateral with the GNSO Council to have an update. I do think it would be useful too, and I'm sure there's probably already a question teed up for this for our interaction with the Board. I'm looking at the question at the bottom of the screen. But just having a general update and following up on that. Any plans for discussion around the bylaw changes would be a great use of time. Thanks.

NICOLAS CABALLERO: Thank you, US. Well noted.

JASON MERRITT: Yeah. I think that that's accurate the way you've characterized it. I think that the nuance is that the Board had essentially adopted some of the recommendations within the topic and left many of them still pending. So, the discussion is still open on many of those. But there has been no decision points on that yet as to how to move forward or what the engagement's going to be across the community or things like that. So, we're still in a waiting mode on a lot of these topics. And I think it's accurate that we can address it with our interactions with the Board or through the communique or things like that.

JORGE CANCIO:

Okay. Thank you, Nico. Jorge Cancio for the record. In the interest of time, we have to continue running a little bit. So, if we go to the next slide, we see another topic where we issued a GAC Consensus Advice to the Board during ICANN77, building on positions we've been developing over the years. And this is on the resolution methods in case you have different applications for the same string. And the basic resolution method according to the GNSO recommendations is using ICANN auction, a system of auctions organized by ICANN. And this is what you have in the final report, I won't read it in detail.

If we go to the next slide, we see what the advice of the GAC was in Washington. Basically, we set two things. One side, that it should be avoided, that auctions of last resort are used in contention sets between commercial and non-commercial applications, and that alternative means for the resolution like drawing lots could be explored by ICANN. That was one thing. And the second thing was to advise the Board to ban or strongly disincentivize private monetary means of resolution of contention sets including private auctions.

Private auctions is a very long story from the last round, but basically those were auctions organized outside of ICANN that led to a lot of gaming and a lot of speculations and let's say, conducts that have little to do with the applications and had more to do with making money out of strategic or tactical applications. So, that is what we advised.

The Board reacted and tried to make sense of our advice. You have this on the same slide, but I will spare you the date and details. And if we go to the next slide, basically, the Board, what they have said so far specifically on our advice on those two very important pieces of advice

is that as the recommendation is relating to auctions are under discussion and pending action by the Board, the Board defers action on this advice until such time as these deliberations are completed.

So, this was in September if my recollection is correct, but shortly after the Board also decided on the recommendations of the GNSO related to auctions, to the ICANN auctions, and they approved at least one piece of those recommendations regarding a very specific piece to make them more transparent and more enforceable than in the last round. And this connected with GNSO clarifying statement. But those pieces, to be clear, don't really address the advice that we gave to the Board in in Washington.

So, my understanding is that a reaction to the Washington advice is really still pending and maybe the question for you is whether we need to follow up with the Board ask them, okay. Where are we yet now with this? Do you consider that the reaction is still pending on your side? When do you think you will react to the advice, or what is the way forward? Because it is clear, and yesterday, we had this conversation with a GNSO, that here we have a clear, divergence between GAC advice and GNSO recommendations.

NICOLAS CABALLERO: Thank you, Switzerland. I have the United Kingdom. Nigel, go ahead, please.

NIGEL HICKSON:	Yes. Thank you very much and not to prolong the debate on this because all I wanted to say is please stay on in the room. Grab a cup of coffee at 9:30 but come back later on for the GAC-ALAC session because the main point on the agenda for the discussion between the GAC and the ALAC is going to be this very issue, and we're going to have a presentation on an alternative to private auctions. So, I think it could be exciting and beneficial to everyone in terms of the policy debate.
NICOLAS CABALLERO:	Thank you, UK. Questions? Comments? Anything you would like to add in this regard?
GULTEN TEPE OKSUZOGLU:	We have Brazil in the queue, Nico.
NICOLAS CABALLERO:	Brazil, go ahead, please.
LUCIANO MAZZA:	Nico, thank you. Now very quickly. I just want to understand reading the materials, and sorry for my ignorance on this. When you refer to these private auctions, and I was reading GNSO clarifications. And there's reference about not allowing, and I think that's part of our concern here, not allowing private gains on opportunistic applications. How that works in practice, doesn't anybody know? I mean, you have private auction, then one guy is buying the other and say, look, you take your application out of the game and then we are done. It's not clear to

me how that might be practical somehow, and it's really if that's how it works, it's absolutely unacceptable. But I want to understand if anybody could shed some light on procedurally how these private auctions actually work. Thank you.

JORGE CANCIO: Thank you. Jorge Cancio for the record. Thank you, Brazil. Thank you, Luciano, for the question. I think, really, this would go beyond the minutes we have allotted for this session, but we can take it offline and try to make sense of this because it's not entirely clear to me. At least in the last round, there were, instances where millions were made with retiring technically applications after private auctions and getting the money to finance other applications and so on and so forth. So, it was a big issue of concern to the community.

But, with this, I'm sorry, but we would need to run to Rose, I think, and try to cover the last point we had on the agenda for today. But, of course, tomorrow, we can continue with the discussions.

NICOLAS CABALLERO: Thank you, Brazil. Thank you, Switzerland. UK, I mean, Rose, please go ahead.

ROSALIND KENNYBIRCH: Thank you, Nico. So, I'll try to keep this relatively brief because I know we're low on time, and we, of course, had the opportunity to discuss applicant support over the capacity development weekend. So, that was a great opportunity. But I just wanted to quickly give an overview

of, some of the recommendations and GAC advice that come out on the topic of Applicant Support.

So, first, I think just to bring to everyone's attention, recommendations in the SubPro PDP Working group's final report that financial assistance should continue to be provided to eligible applicants and to expand the scope of financial support provided to applicant support beneficiaries beyond the application fee to also cover costs such as application writing fees and attorney fees related to the application process. And for ICANN to improve outreach awareness raising application evaluation elements of the Applicant Support program as well as the usability of the program.

So, as we heard yesterday, there's still a lot of discussions ongoing over elements of this, for example, Recommendation 17.2, specifically in areas of the community. So really just to stress how important it will be for the GAC to participate in ongoing conversations in this regard. It's really welcome news I think that there will be a small team+ of sorts where we'll be able to participate as a GAC on these issues. And I think that's something we should be discussing, as others have said, throughout this week and how we might participate on that.

Again, I would also call attention to the Implementation Review Team's work. There will be an Applicant Support sub-track. And there's no limit to the number of GAC members that could get involved with that effort. So, please do go ahead and join that. That will be an opportunity to have ongoing discussions.

But then just to go on to the GAC's view from the ICANN77 GAC communique. The GAC advised the Board 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 deliberations on these matters. To take steps to substantially reduce or eliminate the application fees and ongoing ICANN registry fees to expand financial support for applicants from underrepresented or underserved regions.

To take timely steps to facilitate significant global diversification in the new gTLD program by ensuring increased engagement with a diverse array of people and organizations in underrepresented or underserved markets and regions, including by raising awareness of the Applicant Support Program, providing training and assistance to potential applicants, exploring the potential to support the provision of back-end services and providing adequate funding for the Applicant Support Program consistent with diversification targets.

The Board, hopefully, provided some questions and follow-up points in regard to this advice. And we've got a GAC small team group that we're hoping to take forward further work to address these points. And again, I would welcome interested participants. If you're not already on that email group, please do go ahead and join. But I think I'd just like to close on a theme that hopefully has come clear through this text. Is that we're looking, and the GAC really made its view clear, that support for this program needs to be holistic. It doesn't just-- It's not just a matter of reducing application fees, and that's the end of the story. I know our colleague from Nigeria made an excellent point over the capacity development weekend about raising awareness in local languages, for example.

And so, I think the one key takeaway I'd really flag in all of this long text is the importance of a holistic approach. So, I'll conclude my remarks there. And again, apologies for the somewhat rushed summary, but I know we're low on time. Thanks.

NICOLAS CABALLERO: Thank you very much, Rose. We actually run out of time. So, any final-- And sorry, Iran, I didn't see your hand. I don't know if you want to take the floor now very quickly before I give the floor to others. Iran, are you there?

KAVOUSS ARASTEH: Yes, I am here. You've just said that we have seven important issues. Unfortunately, one hour was not sufficient. We did not agree on anything. We did not continue anything up to the end and just tackled this question. So, we need perhaps to review the situation what we do in future. Thank you.

NICOLAS CABALLERO: Thank you, Iran. Any final thoughts, any final comments before I close the session? Denmark, go ahead, please.

FINN PETERSEN: Thank you and thank you for the possibility. It's not related to the issue here, but it's to request. I understood that we tomorrow will discuss closed generics. Could we have the letter from the GNSO to the Board circulated? I understood that they have sent a letter. It will be helpful

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in preparing that. And the second thing. I've been looking through some of our advice previously, and we had an advice on a cost-benefit analysis. It's way back. And I have had difficulties with finding that cost-benefit analysis. Is possible that the secretary can point where that report is? Because it was a consensus advice and the Board approved it.

NICOLAS CABALLERO: Thank you, Denmark. Certainly. Certainly. We'll get it for you. No problems. So, we run out of time. Sorry. I need to close this session. We'll have a coffee break now. Please be back at 10:00 AM sharp. Thank you.

[END OF TRANSCRIPTION]