
ICANN79 | CF – GAC Communique Drafting Work Session (3 of 7)
Wednesday, March 6, 2024 – 1:15 to 2:30 SJU

DANIEL GLUCK: Hello and welcome to the GAC Communique drafting session on Wednesday, the 6th of March, 2024 at 17:15 UTC. Please note that this session is being recorded and is governed by the ICANN expected standards of behavior. During the session, questions or comments submitted in chat will be read aloud if put in the proper form. Remember to state your name and 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. And with that, I will hand the floor over to GAC Chair, Nicolas Caballero.

NICOLAS CABALLERO: Thank you so much for that, Daniel. Welcome, everyone. I hope you enjoyed your lunch and your Puerto Rico sightseeing. So we'll have three sessions, three GAC Communique sessions, the first one running till 2:30, then we'll have a short 15-minute break, sorry, a longer break, a 30-minute break, till 3:00 PM, and then the second and third Communique sessions, the first one running from 3:00 to 4:00, a short coffee break, a short 15-minute coffee break, and then the last one running from 4.15 to 5.30. If everything goes well, I don't see any reason for us to be dealing with Communique issues tomorrow morning. But if that is the case, tomorrow from 9:00 to 10:00, and then from 10:30 to

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12:00, we might or might not be dealing with Communiqué issues as well. So having said that, let's dive into the details. And for that, let me give the floor to Fabien Betremieux, our Communiqué expert. Please go ahead, Fabien.

FABIEN BETREMIEUX: Thank you, Nico. And so I think we've received a number of pieces of contribution in the document, so we'll be able to get through these as soon as you're ready. And so we can maybe start with the introduction and then move on to advice.

NICOLAS CABALLERO: Yep. Let's do just that. So I'll just read the introduction. You know, this is just something we traditionally do. So Section 1, Introduction. The Governmental Advisory Committee, GAC, of the Internet Corporation for Assigned Names and Numbers, ICANN, met in San Juan, Puerto Rico, in a hybrid setting, including remote participation from 2 to 7 March 2024. X number GAC members and X number of observers attended the meeting. The GAC meeting was conducted as part of the ICANN 79 Community Forum. All GAC plenary and working group sessions were conducted as open meetings, as we traditionally do.

The GAC welcomed the presentation of the 2024 ICANN Community Excellence Award to its former chair, Manal Ismail, as a testament to her exceptional decades-long service, to her continued dedication to the multi-stakeholder model, and to her talents for achieving consensus in an exemplary mode, in an open, fair, collegial, and emphatic manner.

Any comment, any question, any suggestion in this regard? And I see the U.S., please go ahead.

SUSAN CHALMERS: I'll defer to the drafters, but having had the great pleasure of working with Manal for many years, I thought, would that be empathic or emphatic? Either one is good.

NICOLAS CABALLERO: You mean empathic, correct? Empathetic? What's the word?

SUSAN CHALMERS: I think I personally find my colleague to be very empathetic.

NICOLAS CABALLERO: Empathetic, perfect. That's what I was kind of read, but then I saw emphatic, and yeah, it felt a little bit weird. So empathetic is the word, right? Okay, I don't need to read the whole thing again, right? So, all right, so let's move on, and I have...

UNIDENTIFIED SPEAKER: Before we move on, we have Iran in the queue. I know, I know. My good friend, Mr. Kavouss Arasteh, please go ahead.

KAVOUSS ARASTEH: Thank you very much. I have no problem to use any word in English that is not known by many people. Why would not say in a satisfactory manner? Empathetic, emphatic, and so on and so forth. Let us put

something that is understandable for everybody. People like me don't understand anything, stupid number one in the world. Thank you.

NICOLAS CABALLERO: I don't agree that much with you in that regard, Kavouss, but point taken, point taken. So, I don't actually see a problem with using open, fair, collegial, and empathetic. Does anybody have a problem with that? I see some nodding in the room, so that means that we should go ahead. But anyways, thank you, Iran, for your comments. Can we move... And now we're going to advice directly. Let me give you the floor, Fabien, to walk us through.

FABIEN BETREMIEUX: So, we're scrolling down to the advice section and going to the new text, noting that the first section of advice was discussed yesterday, so we're going to the new text now, which is for urgent request for disclosure of registration data with text that was submitted by the European Commission.

NICOLAS CABALLERO: Thank you for that, Fabien. And for this I have the pleasure to give the floor to Christine from Egypt, who will be doing the reading. Please go ahead.

CHRISTINE ARIDA: Okay, so we are on number two, urgent requests for disclosure of registration data, and it goes as follows. A, the GAC advises the board, I, to act expeditiously to establish a clear process and a timeline for the

delivery of a policy on urgent requests for domain name registration data due to vital public safety interests implicated by such requests. Such a process shall ensure appropriate participation of the community, including the GAC.

Rationale, the GAC reiterates its public policy concerns on the lack of progress in establishing an appropriate timeline to respond to requests for registration data in select emergency circumstances known as urgent requests, i.e. circumstances that pose an imminent threat to life of serious bodily injury to critical infrastructure or of child exploitation in cases where disclosure of the data is necessary in combating or addressing this threat.

The GAC recalls that the 2019 Phase 1 policy recommendations provided for a separate timeline for the response to urgent reasonable disclosure requests, those requests for which evidence is supplied to show an immediate need for disclosure. The Implementation Review Team, IRT, developed narrow criteria for urgent requests and initially proposed an up to three business day timeline to respond to such emergency requests. In public comments on the draft registration data consensus policy, GAC and other stakeholder groups objected to the IRT's proposed timeline to respond to urgent requests as not consistent with the obligation to respond to emergency situations and recommended that the IRT revisit the timeline.

The ICANN Org Implementation Project Team, IPT, carefully reviewed the public input received and concluded that there was sufficient justification to revisit the policy language and to require a 24-hour response time for urgent requests. Regrettably, the IRT discussions

could not reach a consensus and the last proposal of three business days with two possible extensions was considered by the GAC as not meeting the purpose of providing a reasonable window to respond to emergency or urgent requests as per the GAC correspondence with the Board of August 2023.

Recalling the ICANN-78 communique, the GAC appreciates the initiative of the Board to separate the topic of urgent requests from the publication of the overarching registration data consensus policy for gTLDs and welcomes the recent publication of the letter. Having discussed the issue with the Board in ICANN 79, the GAC understands that no process for addressing the matter of urgent requests has been established since the work was interrupted in August 2023. To conclude the work initiated in 2019, the GAC urges the Board to restart the discussion as soon as possible with the aim to achieve an outcome that better meets the public safety considerations posed by urgent requests and is fit for purpose as also recommended by the SSAC.

NICOLAS CABALLERO:

Thank you very much for that, Egypt. Let me open the floor here for questions, comments or edits from the floor. As a matter of fact, I do have an observation here. I don't think the last sentence should go here as rationale. You know, because it's actually giving advice here. It says to conclude the work, blah, blah, blah. And then it says... The GAC urges the Board to restart the discussions as soon as possible with the aim to... I mean, I'm okay with the sentence. I just don't think it should be included in the rationale. What do you think? And this came from the European Commission, correct? Martina, do you have any strong

feelings with that? Would you be okay if we change it and put it somewhere else? I mean, as part of the advice itself, for example.

MARTINA BARBERO:

It's a bit of a repetition of the advice, if you will. But the point we tried to do is to recap a bit all the story and everything that happened so that we are very transparent with the community on why this advice is needed right now. So I think the point there is that there is no process that has been put in place since the work was interrupted in August. So if you want to, we can try to rephrase or reformulate. But I understand your point. We can try to rephrase if you want. But it was just to give the comprehensive picture so that someone from the community that has not followed all the discussion as the entire rationale altogether.

NICOLAS CABALLERO:

Good point. Thank you. You know, just saying. But yeah, if that was the intention, I totally understand. I have Iran on the queue.

KAVOUSS ARASTEH:

Yeah, thank you, Chair. I think this language is not rationale. When you urge somebody, it's sort of the advice or request or whatever. So either you delete that or add it into the advice itself if necessary. I said if necessary. But this is not any rationale on that because you urge somebody. Urge is not rationale. Thank you. It's not justification. It's a request. I would not say order, but a request, invitation, and so on and so forth. So two options. Delete or put it in an appropriate manner in the advice body itself. Thank you.

NICOLAS CABALLERO: Hold on, Kavouss. So are you referring to the last sentence or are you referring to any other part of the text?

KAVOUSS ARASTEH: I supported you that this last sentence is not—

NICOLAS CABALLERO: Last sentence?

KAVOUSS ARASTEH: Yes. All right, I'm sorry if I was not clear. I'm very sorry.

NICOLAS CABALLERO: Thank you. Just to make sure we were talking about the same thing. Martina, please go ahead. European Commission.

MARTINA BARBERO: We totally get your points. What we can do if you want is to delete this sentence. Maybe we can keep the part on the aim to achieve and put that in the advice if that's something that could be. Just to keep the reference to that and to the recommendation from the, as also recommended by the SSAC. We can move it. Maybe there is, when we say to act expeditiously, etc., due to vital public safety interest implicated by such request, comma, with aim to achieve, and we copy the sentence there so that we delete the part that pose problems on urging. That could be a good solution. Otherwise, we can discuss it.

NICOLAS CABALLERO: Thank you, European Commission, for that. So, give us some time to do the editing. And I have Indonesia and then Iran. Indonesia, please go ahead.

ASHWIN SASTROSUBROTO: Yeah, thank you. I think that one is, that point is important because it relates to the previous 2019 work initiated, initiation, you see. So, perhaps rephrase this one, the word, so that it become rationale, is necessary. However, in the advice, I'm aware we are not seeing the advice yet. But in the advice, perhaps, you can put points which are related to this rationale, that after the initiation of 2019 work, then the board should do something like that.

NICOLAS CABALLERO: I don't quite understand. Do you have any specific text to put there?

ASHWIN SASTROSUBROTO: For example, the text might be, well, I'm very sorry if my grammar is not correct. But basically, what I would like to say is that because in 2019, the work has been initiated, then it is necessary for ...

NICOLAS CABALLERO: No worries, Ashwin, I can give you some time in order to think about some text. And we can come back to it later if you agree. European Commission, you have anything to add to that? No, you're okay? Perfect. So, then I have Iran.

KAVOUSS ARASTEH: Thank you. Could you go to the paragraph under discussions? The last part, yes. The problem is the use of the term GAC urges. We could not urge GAC in the rationale. But we could say, take the part in order to achieve so on and so forth, but not urge. So, either you delete that portion, urges, so on and so forth, and start with in order to, but not with the aim, in order to achieve. When you say with the aim to achieve, we weaken the sentence, just giving objectives. But then we say in order to is more stronger. So, either totally delete that, or if you don't keep it, you have to reward it. I think I'm okay if you delete that totally. Put it in the body of the text as advice. We need to reword that because at the beginning, strongly we say to act expeditiously to establish. So, what does it mean to urge after expeditiously? Expeditiously is more stronger than to urge. So, maybe, maybe the chair, we don't need anything to add. Just delete it from that part and not adding anything. Thank you.

NICOLAS CABALLERO: Thank you for that. European Commission? Go ahead.

MARTINA BARBERO: We totally understand the point from our colleague from Iran. I think we suggested indeed to delete that sentence from the rationale, not to avoid any confusion about us urging the board to do something in the rationale, and move it in the advice with the rephrasing that the colleague suggested. So, instead of with the aim, with the replacement of in order we support this solution, we think it's a good solution.

NICOLAS CABALLERO: Thank you, Iran. And thank you, European Commission. That's exactly what we were trying to do. Indonesia, have you come up with any possible text? Not yet? Okay, perfect. No problems. I have the CTU next. Nigel, please go ahead.

NIGEL CASSIMIRE: Thank you, Chair. My comment relates to the statement of the advice itself. Vital public safety interests implicated by such requests. I'm not quite clear what implicated by, and I'm wondering if it means that rely upon such requests or reliant upon such requests. The implicated there doesn't... It's not clear to me.

NICOLAS CABALLERO: So, what would you like to put there, Nigel? Implied or is implied by or relying on?

NIGEL CASSIMIRE: No, no. That rely on such requests.

NICOLAS CABALLERO: That rely on, right?

NIGEL CASSIMIRE: Yes.

NICOLAS CABALLERO: Okay. Let me just read it as it is. Sorry, sorry. European Commission?

MARTINA BARBERO: Just to acknowledge that the language came from previous communiqué and GAC agreed language. So, we copy-pasted from, I think, the letter that we sent to the board this summer. So, we're happy to change it, just acknowledging that it was a copy-paste.

NICOLAS CABALLERO: Thank you, Martina. So, let me read it as it is, and then we'll discuss a little bit further. The GAC advises the board to act expeditiously to establish a clear process and a timeline for the delivery of a policy on urgent requests for domain name registration data due to vital public safety interests that rely on or implicated by such requests in order to achieve an outcome that better meets the public safety considerations posed by urgent requests, and so on and so forth. I'm not going to read the whole thing. So, it sounds a little bit confusing to me. I don't know if you're happy with the way it is, but it sounds a little bit repetitive, maybe. I have Iran.

KAVOUSS ARASTEH: Thank you, sir. I think, perhaps, the term due to is not appropriate here. When we say registration data, to respond to the vital public safety interest. Not due to. It's more than due to. To respond to the public safety interest. And then we don't need to say implicated or impacted or relying on, so on and so forth. We address the need to respond to the vital safety interests. Public safety interests. We don't need by relying or relying on such. It doesn't have any relation, good relation, with the first part. So, maybe we don't need that. So, after interest, whatever you put in the square bracket, we may not need it. And also, such requests. Yeah.

NICOLAS CABALLERO: Thank you, Iran. I have the European Commission.

MARTINA BARBERO: I don't want to make things too complicated. Let's maybe try to simplify the sentence. But just to acknowledge that I think the due to the vital public safety interest was linked to the fact that by the definition of urgent request, those are situations that imply very strong public safety interests. So, the vital public safety interest was not related to the request of the data itself. It was more like the danger. But let me try to send you a suggested simplified sentence that we can maybe all agree upon to avoid that we discuss it at length. Is that okay?

NICOLAS CABALLERO: That's perfect. Thank you so much for that, Martina. Okay. So, let's wait then for the text from the European Commission and let's move on, Fabien. Back to you.

FABIEN BETREMIEUX: So, then in terms of substantive input received, we can go back to the issues of importance. The first section of issues of importance on DNS abuse was agreed yesterday. So, we're moving on to the next one, which is cost benefit analysis of the new gTLD program.

NICOLAS CABALLERO: Thank you for that, Fabien. And for this, I would have my distinguished colleague from Lebanon to do the reading. Lebanon, please go ahead.

LEBANON:

Cost benefit analysis of the new gTLD program. In the ICANN 56 Helsinki communique, the GAC advised the board that an objective and independent analysis of costs and benefits should be conducted beforehand, drawing on experience with and outcomes from the recent round. And the board accepted said GAC advice. The GAC again raised this issue in its ICANN 64 and ICANN 70 communique. In the ICANN 70 Hamburg communique follow-up on previous advice, the GAC recalled its ICANN 56 advice to the board concerning an objective and independent analysis of costs, noting that so far the GAC is not certain of the availability of such analysis called for by the GAC, and that the GAC is looking forward to receiving such analysis at the earliest opportunity and ahead of ICANN 79.

ICANN Org compiled the document overview of analysis related to costs and benefits of the next round of the new gTLD program. The GAC understands that the board may consider that this document has fulfilled GAC's advice concerning the cost benefit analysis. The GAC has assessed if the document can be considered an implementation of the GAC advice, and concludes that the document cannot be considered to constitute a cost benefit analysis, nor an objective and independent analysis.

In this sense, the GAC notes that the analysis carried out is a detached assessment of certain individual costs and benefits. To be considered as a cost benefit analysis, the analysis must be comprehensive, coherent and complete, and must assess and quantify all significant advantages and disadvantages seen from a global perspective.

Furthermore, all inputs to the document have been prepared by ICANN stakeholders or the ICANN Org itself, all of whom in one way or another have a stake in the previous gTLD round or in the next round of gTLD, and therefore are not per se objective or independent.

The GAC recognizes that the community with involvement of the GAC is taking forward a next round of the new gTLD and has set a corresponding timeline. The GAC therefore believes that conducting a further analysis at this stage would not serve the intended purpose. The GAC encourages the Board to avoid the repetition of similar situations in the future, and to ensure that GAC advice, which the Board has accepted, is effectively implemented and its implementation is communicated to the GAC.

NICOLAS CABALLERO:

Thank you very much, Lebanon. So we're basically telling the Board that we gave advice nine years ago, I think in Washington, I don't remember exactly, and that we understand that we don't intend, we're not aiming by no means at stopping the next round or anything like that, but that we want to be taken seriously. Is that more or less the idea? Does anybody have a problem with the way it is worded? I don't see any hands in the room, and I see Iran. Please go ahead.

KAVOUSS ARASTEH:

Yes, Chairman, if you agree, I have a problem with the text. First, on the construction, the second paragraph should be connected to the third paragraph, because second paragraph, we see the GAC understand that the Board may consider that this document has fulfilled GAC's advice

concerning the cost-benefit analysis. So, and the third paragraph said the GAC, between the two, we should have however, because this is different from what the Board has done. So, we should say however, and then the GAC and so on.

Now, coming to the rest of—Chairman, please believe me, we should avoid a clear-cut criticism. And we should avoid some strong word that the GAC encourages the Board to avoid. Maybe we should change the sentence or change the word, not saying that to avoid. But that's what I'm saying, that we are in a friendly environment. We understand that what they have done is not correspond to what GAC has requested. However, it may be other way to express the same thing, but it is too strong.

And then, in the middle of the paragraph, we say that the work has been done by a stakeholder. So, every letter, all input to the document have been prepared by ICANN stakeholder. So, are we criticizing them? But they have the right to provide input. Or by ICANN Org. All of whom, in one way or another, have a stake in the previous gTLD. So, this is criticism. We're saying that the stakeholder, because they have interest in something, prepared, or I would say I'm sorry to say that misguided the ICANN Board. No, I don't think we should say that. A stakeholder has the right to say. Board should accept or not accept. That is different views. But we should not criticize a stakeholder. And so on and so forth. So, I don't know. I am saying that, if possible, perhaps be a little bit more gentle language, expressing our views, as you have always said, in a more gentle, wise, and gentleman agreement, and gentleman fashion, and not saying that a stakeholder influence. What we are saying is that a stakeholder influences the situation. But a stakeholder is a

stakeholder. This is a down-up process. A stakeholder has the right to say. ICANN should have not accepted that. So, I think, I suggest that this requires major modification. Thank you.

NICOLAS CABALLERO:

Thank you, Iran. So, let me get back then to the countries that provided this draft text. And you're more than welcome to provide any ideas in this regard. You can send... Fabien, at this point, is the Google Doc still open? Yeah. So, the document is still open, Kavouss. So, you're more than welcome to contribute and to add ideas there. Erase whatever you see fit. And then we'll see if we all agree. Unless the four, five, or six countries that provided the draft text strongly disagree, which I don't think will be the case. But, anyways, I see Denmark. Please go ahead.

FINN PETERSEN:

Finn Petersen from Denmark, for the record. Thank you for giving me the floor. First of all, it is not my view that it is a big criticism of the board. We could have done it. They have, according to Denmark's view, violated the bylaws. Not delivered what they have promised. And certainly not within a deadline. So, for our point, it's my criticism when they actually do not adhere to the bylaws. We are not criticizing the community. The community report are fine. We are just saying that those reports cannot go into the cost-benefit analysis. Because they are not independent. It's ICANN Org who have done something and others. The board should have given the job to external. What the ICANN community have done in the CCT report and other reports is fine. But the board cannot use it in the way they have sought to use it. Thank you.

NICOLAS CABALLERO: Thank you, Denmark. Any other reaction in the room? Okay. So, I see Iran.

KAVOUSS ARASTEH: Thank you, sir. I am not criticizing anybody. Nor our distinguished rep from Denmark. But I have no means to check what is here. It says, furthermore, all input to the document have been prepared. I don't have any ways or means to check whether all or some or majority or minority. I suggest that we delete this part totally. Furthermore, up to the end. So, in one part, I would say, in one way, a strong comment to the stakeholder. On the other hand, ICANN Org. ICANN Org, it is our counterpart. We need them very much. So, I suggest that we delete this one. By deleting that, you don't miss anything from the remaining part. Except the last part that we could avoid to say that, avoid to do this. This is some sort of the commandment and order and very strong and heavy. But I'm not criticizing distinguished rep. I'm just suggesting a comment. Thank you.

NICOLAS CABALLERO: Thank you very much for that, Iran. Does the floor, does the full GAC agrees with Iran's recommendation? With Iran's edit? Is there any opposition to Mr. Arasteh's suggestion? I don't see any hand up. So, that means that we'll erase it. Would Denmark be okay with erasing that last paragraph?

FINN PETERSEN: Thank you. From a Danish point of view, we think the wording is appropriate. But if it's the way to move forward, then we will, of course, be ready to accept that.

NICOLAS CABALLERO: Thank you, Denmark. So, I see support for keeping the text as it is. Is that correct? In other words, do we have support for Denmark's proposal for keeping the text? Any opposition apart from Iran, obviously, who has already stated that he's against it? Egypt, go ahead.

CHRISTINE ARIDA: No, I was just going to offer maybe a way forward. I think the point of, if I understand correctly, the point by Denmark is the fact that we would like to highlight that it does not meet the condition of being objective and independent. So, I'm just suggesting if Denmark and whoever has worked on that text would like to take that last sentence and propose maybe an alternative text that would put forward that it not being objective or independent without actually maybe talking about the ICANN stakeholders and ICANN Org. Just a suggestion to move forward.

NICOLAS CABALLERO: Thank you, Egypt. Thank you. So, we have two opinions. On the one hand, Iran wants to erase that last paragraph. And on the other hand, Denmark wants to keep it. They are both equally right. So, we need to decide what to do, right? So, I take your point, Egypt. Thank you for the suggestion. So let's move on until we have either a new proposal, maybe coming from the distinguished colleague from Iran on some sort

of different wording maybe. And there's a suggestion already in the chat room. So, let me check it. Yeah, yeah, please go ahead.

UNIDENTIFIED SPEAKER: So, there is a suggestion from the U.S. Furthermore, the analysis cannot be considered objective or independent because it was prepared based on inputs from ICANN Org and the ICANN community.

NICOLAS CABALLERO: Would Denmark be okay with that text?

FINN PETERSEN: We will be okay with the text, yes.

NICOLAS CABALLERO: Thank you very much, Denmark. Iran, would you be okay with that text?

KAVOUSS ARASTEH: I am okay, provided that the last part should be deleted. Furthermore, the analysis cannot be considered objective or independent. And we don't say because of what. That's all. Just we say it is not objective because it is, we do not say because it was prepared based on input from ICANN Org and ICANN community. It's making worse. Now we criticize the entire ICANN community. I'm sorry, distinguished colleague from U.S. I'm very sorry.

NICOLAS CABALLERO: Yeah, thank you for that, Iran. We don't delete it yet because we don't know if the U.S. actually agrees with Iran on that point. So let me check with the U.S. Would you be okay with that addition?

SUSAN CHALMERS: I think that, to my colleague from Iran, the question is if we want independent analysis, independent of ICANN, something that is prepared objectively outside of the ICANN ecosystem so that it can be considered independent, is what is the best way to express that point. Because otherwise it is dependent based upon the inputs and who conducts the analysis. I think that is the point that we are trying to make. We're not really trying to criticize at all the community. And so I just want to provide that clarification. As to whether or not—we're just trying to be helpful as to whether or not we agree or disagree with modification of the text. We'll defer to our colleagues on that point from Denmark. Thanks.

NICOLAS CABALLERO: Thank you for that, USA. Denmark, would you like to add anything?

FINN PETERSEN: Well, if I understood the intervention from Iran once again, then if the suggestion is that we only have furthermore the analysis cannot be considered constitutes an objective, and independent analysis and no more, then it will be okay with Denmark. Normally we give a rationale why we think it, but if we, in this case, contrary to what we else do and what other countries used to say that we should do, then we will be okay with deleting that.

NICOLAS CABALLERO: Thank you for that, Denmark. And I have Iran again.

KAVOUSS ARASTEH: Yeah, thank you, Chairman. First of all, I don't oppose to anybody. But I suggest something as follows. Furthermore, the GAC is of the opinion or is of the view that the analysis should have been done objectively and independently. Passive voice, not talking about any particular. Furthermore, the GAC is of the view or a strong view or whatever that the analysis should have been done objectively and independently. In fact, we say that it has not been done objectively because that is another polite way to express that. So maybe you ask the distinguished colleague whether that could fulfill the requirement and so on and so forth. Thank you.

NICOLAS CABALLERO: Thank you, Iran. I have Lebanon.

LEBANON: May we use it was prepared internally within ICANN without mentioning nor the org and neither the stakeholders?

NICOLAS CABALLERO: So, Lebanon, you will say full stop after internally or how would you like to go ahead? How would you like to continue the sentence, I mean?

LEBANON: Yes, yes, because it was prepared internally. Full stop.

NICOLAS CABALLERO: I would read, the analysis must be comprehensive, coherent and complete and must assess and quantify all significant advantages and disadvantages seen from a global perspective. Furthermore, all inputs to the document have been prepared internally. I don't know. I'm not sure it reads well. So give me just one second. Let's try to rewrite the whole thing. So it would read something like this. Furthermore, the analysis cannot be considered objective or independent because it was prepared internally.

LEBANON: Within ICANN, maybe.

NICOLAS CABALLERO: Within ICANN. But if I say within ICANN, are you referring to ICANN org, ICANN board, the full ICANN community?

LEBANON: We don't mention anyone.

NICOLAS CABALLERO: You don't mention anything? All right. All right. Any reaction in the room? Any comment? I don't see any hand up. And I have Iran. Go ahead.

KAVOUSS ARASTEH: Yes, sir. I don't believe that internally addresses the issue. Still, I don't believe that what I suggested, which has the same meaning, but in a, I

would say, passive voice, has any difficulty. Prepared internally. What does it mean? Internal with respect to what? So it's still vague. So this is something that's very important. So I suggest that perhaps either you delete the whole thing, that everybody agreed, except our distinguished rep from Denmark. He has the right to not agree. Or put the way that I have suggested of the view or a strong view of a strong opinion that it has not been done. It should have been done objectively and independently. This addresses the issue that it was not done objectively. And it was not done independently. So that is, we address the same thing. Thank you.

NICOLAS CABALLERO: Thank you, Iran. I have Egypt.

CHRISTINE ARIDA: Thank you. I think the issue of objective and independent is core to the advice that we gave. And I think it's one of the problems that are being discussed. We do agree that we don't want to be difficult, but we also, I think, agree that we would like the GAC to stick to its own advice in a way and to make sure it's valuable. So I'm having an issue with putting objective and independent without saying the rationale because it would be as if we're making claims that are baseless. And I think it's very important that we are clear, else it would, again, mean that we are putting an advice and we do not believe in the advice that we've put or we are not agreeing to it. So I would kindly ask our colleague from Iran to provide an alternative text that puts a rationale for, that is not, in his opinion, criticizing the stakeholders, but at the same time puts forward

a rationale for why it is not objective or independent, unless he believes it's objective and independent.

NICOLAS CABALLERO: Thank you for that, Egypt. And I have Iran again.

KAVOUSS ARASTEH: If distinguished colleagues from Egypt want to say that after should have been done or have not been done independently and so on and so forth due to the fact that does not represent general views of the ICANN community, including GAC. But I don't believe that we need to say due to what. We just say has not been done objectively and independently. We don't want to indicate the reasons. Independent means that it was dependent of something, but without saying that dependent of internal or so on. I don't understand why we have difficulty with this one. I'm sorry. Still, I come to the point that we delete the whole sentence at all or kindly take that not to say due to what. As soon as you start to take due to what, you have to put someone in a spot, whether internal, whether external, whether stakeholder. And we want to avoid that. That is the meaning of talking passive. Thank you.

NICOLAS CABALLERO: Thank you for that, Iran. The reason is that the text was provided by six countries, if I understand correctly, and we, as a matter of fact, have Denmark has a problem erasing that last sentence. We would greatly appreciate, Kavouss, if you could provide alternative text, something. The document, if I understand correctly, Fabien, the document will be open till 8:00 PM tonight. So you're more than welcome to provide your

own input, Iran, in this regard. Not only here, but everywhere else in the document in order to make our discussions easier and in order to try to reach consensus beforehand and therefore being able to be way more efficient. So again, we're stuck here. I don't know, maybe we should park this and move on because otherwise we will be arguing about grammar issues and English language synonyms and so on and so forth. So Iran, go ahead, please.

KAVOUSS ARASTEH: Because I am under some ... I don't want to say anything. I don't agree with that, but I don't oppose to that. Finished. Thank you.

NICOLAS CABALLERO: Okay. Well noted. You don't agree, but you don't oppose. That's fair enough, I guess. So let's park it there. Then when we read the full document, we might or might not discuss again. Thank you for that. Let's move on. Fabien, back to you.

FABIEN BETREMIEUX: So we would actually suggest to go back to advice on urgent requests because we received edited text from the original drafter from the European Commission in the advice part as well as in the rational part. Should we go through that?

NICOLAS CABALLERO: Please. And for this, I would ask my distinguished vice chair from Colombia to read it. Please go ahead, Thiago.

FABIEN BETREMIEUX: And so if I may, in the advice, the alternative text proposed for the entire piece of advice is what is highlighted here on the screen. So just for clarity. And we've done the same at the bottom of the rationale.

THIAGO DAL-TOE: Sure. So we'll read the highlighted version, correct? So it reads as follows. To act expeditiously to establish a clear process and a timeline for the delivery of a policy on urgent requests for domain name registration data to respond to the vital public safety interests related to such requests. Such a process shall ensure appropriate participation of the community including the GAC.

NICOLAS CABALLERO: So before we read the rationale, any comment, any question? European Commission, go ahead.

MARTINA BARBERO: Thank you very much, Chair. Just to say that we wanted to simplify the sentence to make it more readable because the addition from the rationale was making things complicated and also to modify this implied or implicated rely on that made things more complicated to understand. So the idea was to simplify that sentence and we have then reintroduced in the rationale some reference to the SSAC, but instead of urging, we indicated the work should restart so that should avoid the issue about advising in the rationale. So those were the two modifications that were made. Yeah, sorry.

NICOLAS CABALLERO: Thank you, European Commission. I have Bangladesh. Go ahead, please.

DR. SHAMSUZZOHA: Mr. Chair, thank you. Just a small suggestion. I think in this paragraph we are suggesting something. So in the last sentence, such a process shall ensure, so my suggestion is that we should use such a process should ensure appropriate participation. So shall should be replaced by should. That's my suggestion. We are advising something here.

NICOLAS CABALLERO: Thank you for that, Bangladesh. I have Iran.

KAVOUSS ARASTEH: Thank you. I was about to say I agree to the text, but I don't agree with should. Should is optional. It's not mandatory. I say that ensures or shall, but not should. Should is optional. Thank you.

NICOLAS CABALLERO: And there's a suggestion in the chat room from the UK. Let me read. Must ensure. I was going to mention exactly that. So this is some sort of telepathy or something. But yeah, I totally agree. I was going to say must. So could you read it again, please, Colombia? Would you mind reading the whole paragraph again?

THIAGO DAL-TOE: To act expeditiously to establish a clear process and a timeline for the delivery of a policy on urgent requests for domain name registration data to respond to the vital public safety interests related to such requests. Such a process must ensure appropriate participation of the community, including the GAC.

NICOLAS CABALLERO: Thank you so much for that, Colombia. Do we have an agreement here? Any opposition? And I see nodding in the room. I don't see any hand in the chat room. That means that voila, it worked this time. Very happy. Very happy to see that. So maybe we can go on and read the rationale. Would you help me with that as well, Colombia? Sorry, we have already read this, if I recall correctly. So you just need to read the last part. Please, go ahead. The highlights, please.

THIAGO DAL-TOE: Against this background, the work initiated in 2019 should restart as soon as possible with the aim to achieve, quote, an outcome that better meets the public safety considerations posed by urgent requests, end quote, and, quote, is fit for purpose, end quote, as also recommended by the SSAC.

NICOLAS CABALLERO: Thank you, Colombia. Do we have an agreement here? Any opposition? Any comment? I don't see any. I don't see any hand in the room. I don't see any hand in the chat room. There we go. Perfect. Let's move on. Fabien, back to you.

FABIEN BETREMIEUX: So we're going to be scrolling back to issues of importance and maybe move on to the third section on RVCs and PICs.

NICOLAS CABALLERO: Perfect. So let me read that. Registry Voluntary Commitments, RVCs, and Public Interest Commitments, PICs, in new gTLDs. That's the title, obviously. GAC members discuss the implementation framework for content-related registry commitments in the new gTLD program next round in preparation for potential committee input to the open consultation process. The discussion, to an extent, was framed by GAC advice in ICANN 77 Washington D.C. communique on the fundamental need for PICs and RVCs to be enforceable. GAC members shared a range of views on this issue, including that the committee needs adequate time to analyze and consider this complex issue. Concerns around a fundamental bylaw amendment concerning content and whether any outcome would jeopardize the existing RVCs, which registries had entered into as a result of GAC advice. As such, it was thought that it would be helpful if ICANN Org shared a legal analysis. It was noted that fundamental bylaws amendments should be considered carefully and that an amendment should only occur if the ICANN community believes it is absolutely necessary. The GAC intends to consider these issues further and seek to submit... It should be seeks, right? Sorry, sorry. Let me read it again. I mean, that last part. The GAC intends to consider these issues further and seek to submit a joint GAC comment to the community consultation process. There it is. Questions? I see Colombia.

THIAGO DAL-TOE: Thank you, Chair. Just for the sake of reading in the phrase where it says concerning twice, concerns around a fundamental bylaw amendment concerning... Could you maybe replace the second concerning to related to content and maybe check if every mention to bylaws amendment should be in caps? Thanks.

NICOLAS CABALLERO: Thank you, Colombia. In order to avoid redundancy, agreed, on my side at least. And I have the European Commission. Please.

MARTINA BARBERO: Thank you very much, Chair. And we support the text just for... Because we are rereading it, we wonder whether we would get more likelihood of getting the legal analysis instead of saying it would be helpful. We could say something like we would invite ICANN Org or ... Just because it would be helpful might not get us the legal analysis we need. Yeah, if others feel...

NICOLAS CABALLERO: Very good point. Yeah, something a little bit, I wouldn't say stronger in order to avoid any kind of sensitivities, but I agree with you. Something a little bit more substantial, right? Formal maybe, yeah. So how would it read? Martina, would you like to go ahead?

MARTINA BARBERO: Such the GAC would invite ICANN Org to share legal or something like that, but I leave it to maybe some native speaker to phrase something that is a bit stronger without not stronger.

NICOLAS CABALLERO: Thank you, European Commission. Thank you very much. Let's try to draft it. So let me read it again then. As such, the GAC would invite ICANN Org to share a legal analysis. I'm not going to read the whole thing, right? So what do you think? And I have Brazil and Iran. Brazil, please go ahead.

BRAZIL: Thank you, Nico. No, just at the end of the text, when it says that GAC intends to consider these issues further and then probably be, and without the ICANN intends to submit perhaps, but my question was not to the draft itself. When we say that we intend or we seek to submit a joint GAC comment to the community consultation process, I understand we are indicating our intent to do so in the formal consultation process that is open right now. So just make sure on the same page that we are taking up the responsibility of engaging that process in the next couple of weeks to have some change. I don't know if that's the idea or on the other hand, we should wait what comes from this process and then have a broader discussion, analysis to get to some sort of conclusion, opinion on this issue. I'm not sure you're ready to present comments in the ongoing community consultation process. Of course, countries can do it by themselves, but as a joint endeavor, I'm not sure we'll be in a position to do so. Just a question that I posed to my colleagues.

NICOLAS CABALLERO: Thank you for that, Brazil. I think that's why the language is somehow generic, very general, so to say. But again, it's up to us to work it out. I have Iran again.

KAVOUSS ARASTEH: Thank you, sir. I think, first of all, I have difficulty with the word shared. Shared with whom? Shared with GAC? Shared with whom? I think we should be quite straightforward, simple, saying that GAC is of the view that a complete legal analysis is required in this regard before taking any other action with respect to the modification or changes of the bylaw. We need a legal analysis.

NICOLAS CABALLERO: Hold on. Just one second. Can you repeat that? Please give us time to write it down, Kavouss, otherwise it will be impossible. So would you please go ahead? Yeah, yeah, yeah. Slowly, please. The GAC is of the view?

KAVOUSS ARASTEH: GAC is of the strong opinion or view that a careful legal analysis is required in this regard. And then go to the change of bylaw that you have addressed. And I have one small comment on that. I come later on. But I think that we do not talk about sharing or something. We are just saying that a careful legal analysis should be done. When analysis is done, no doubt it will be shared. I don't think that it will go to the basket of the ICANN. It will be shared with the community. So I don't understand the term shared. Always people using shared with us. What

does it mean, sharing? We want to say that a complete, careful analysis should be carried out in this regard. Thank you.

NICOLAS CABALLERO: Thank you, Iran. Point taken. I have the UK and then the European Commission. Ros, please go ahead.

ROSALIND KENNYBIRCH: Thank you, Chair. I just wanted to come in on the point about submitting a joint GAC comment, just to first say how valuable I found the presentations on this issue from our GAC colleagues this week. And just to say the importance of, I think, taking a collaborative approach to these issues. We've done so before. And so I would really endorse collaborative working on this. Of course, countries are always welcome to submit to these individually. But I do think collaborative GAC efforts on such a comment could be important, particularly in the light and context of our colleagues' excellent presentations this week. So thank you very much.

NICOLAS CABALLERO: Thank you for that. UK, I couldn't agree more with you. I agree wholeheartedly. Thank you for that comment. I have the European Commission. Go ahead, please.

MARTINA BARBERO: Thank you very much, Chair. Just to say that I understand maybe the word sharing was not the most adequate in English. But the point is we want ICANN to send a legal analysis to the GAC, not only to produce it.

Because the way the esteemed colleague from Iran has rephrased it, it seems like they can do the legal analysis and keep it for themselves, which would not be helpful for our own further reflections within the GAC. So there is a need for a complete and careful legal analysis. Maybe that has already been done by ICANN Org. The point we want to make in the communique is that whether it has been done already or not, we want to receive it. So if we want to change the sentence I suggested, and instead of saying share, we'd invite ICANN Org to send a legal analysis to the GAC. If that makes it clear, we can suggest that.

NICOLAS CABALLERO: Thank you, Martina. Thank you, European Commission. I have Iran.

KAVOUSS ARASTEH: Thank you, sir. I agree with European Commission, but I would not say share. I don't like the word share. I said the result after the sentence I proposed, regard, the result of which be made available to the community. The result of which, that means analysis, be made available to the community. Not only GAC to the community, the entire community. This is important. So I covered the point of distinguished colleagues from the European Commission.

NICOLAS CABALLERO: Thank you very much, Iran. European Commission, would you be okay with the text? Okay. So we're making progress. Any other comment, question, suggestion, thoughts? I don't see any hand up in the room. I don't see any hand up online. And we only have three more minutes. I'm sorry, I have the USA. Go ahead, please.

SUSAN CHALMERS: Thanks, Chair. I'm just going to go in and make a slight formatting suggestion in the list that we have in this text for readability. Not to change the substance, but I'm going to do that.

NICOLAS CABALLERO: Please go ahead. Yeah, yeah. Where exactly, Susan?

SUSAN CHALMERS: In the text that is right under the footnote. There we go. Thank you.

NICOLAS CABALLERO: And would you like to do it now?

SUSAN CHALMERS: I'll do it now, but I'll propose it in the text as opposed to taking up time on the mic.

FABIEN BETREMIEUX: Thank you, Nico. While the edits are coming in on this first portion of that part of the text, I just wanted to clarify which of the sentences we keep as it relates to the legal analysis. It seemed that there could be agreement on a second sentence in the new formulation. I just want to check.

NICOLAS CABALLERO: I think so. Again, let me read both just in case in order to see which one we would keep. The first one would read, as such, the GAC would invite

ICANN Org to send a legal analysis to the GAC. Full stop. And then the second would read, the GAC is of the view that a complete and careful legal analysis is required in this regard, the result of which should be made, or must be made, I would say. I don't know. I don't have a preference there, but must or should. Because if you put should, you leave room for interpretation, I would say. So the result of which must be made available to the community. Maybe we should use softer language here, but I don't know. My brain is not working well at this time, and we're one minute away. Actually, it's already time. So which one should we keep? The first or the second? Sorry, Egypt, go ahead.

CHRISTINE ARIDA:

We can use is to be made available instead of must.

NICOLAS CABALLERO:

Thank you so much. Iran, we're at the top of the hour, but go ahead, please.

KAVOUSS ARASTEH:

I want to say that I'm not in favor of the use of must very much. [inaudible] use much. Either shall or should. But here, this one is okay, proposed by Egypt, or maybe need to be made available. Both of them are okay. But not you going to use must. It is super strong, Chair. Thank you.

NICOLAS CABALLERO:

Thank you very much. We agree. We have an agreement, and we have made progress. So we're okay for some good Puerto Rican coffee, I

guess. We'll have a 30-minute break, and we'll reconvene at 3:00 PM.
Thank you very much.

[END OF TRANSCRIPTION]