

ICANN Board - GAC Meeting

Afternoon Session

1 March 2011

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>>PETER DENGATE THRUSH: Ladies and gentlemen, if could you take your seats. We are ready to begin. Thank you for coming back. We hope you have had a productive period as the board has in reviewing this matter.

What I have been asked by the board do, and obviously I'm very happy to do that, is to come up, as we said, at 4:00 and give you what will amount to an interim report.

The reality is we haven't yet finished our review of the issues in the scorecard. What I can tell you is that we have worked our way through with some very productive discussions as far as item 5 is concerned, and I can going to report on that.

Let me begin by saying how productive we feel this whole session has been, and very much appreciate the contributions from the GAC and the scorecard and the discussions. And we include in that the social introductions we have been having with the GAC members over dinner, et cetera.

The whole process, I think we all agree, has been extremely helpful, and is something that is leading, I think, to a very positive result.

That said, what we're about to go through is what, in board speak, is called best current thinking. You need to be very clear that this is not a final position of the board here. It's certainly not a board resolution. We are not acting as a board. There are board members not present and some of our liaisons -- one of our liaisons has had to leave.

So this is the best current thinking of the board on these topics in response and pursuant to the discussions that we have had. And I just want to stress that again because we have had, in the past, people become concerned when the board has indicated a position and after later advice has changed its mind or done something different.

Do not assume that this is the final position of the board. This is the board's best current thinking on these topics, and in some ways, it's reaction to the consultation that we are having.

So let's begin. I'm not sure what's on the screen. I haven't got anything in front of me. Nothing?

I thought it might be helpful just to put up the scorecard, and we can work through and give you the reaction. And I know that the board topic leaders will -- thank you -- will help.

So what I would like to see on my screen, if I can, technical crew, is the scorecard, not the scribing screen.

>> We are switching it.

>>PETER DENGATE THRUSH: Thank you.

And if we could change the font.

Remember what we are trying do is we are trying to work out of the 12 areas where we have signaled, because of the ways the bylaws worked, we have signaled we are going to disagree with the GAC on 12 issues and that triggers the bylaw consultation that we have scheduled for the 17th of March in San Francisco.

What we are trying to do here is eliminate, if possible, those issues, so we can say, well, we do not have disagreement with those issues, and if there are any left -- only those had a are left will go to the bylaw consultation.

We will work through in good faith to try to resolve them. So that's the first exercise.

We have created three mental buckets or categories in our minds where we have got a 1A, which is, yes, that's GAC advice that we think we can follow, we can implement easily. We don't need to argue about that one anymore.

The next one is 1B, which is, yes, we think that's a principle or a theory that we can live with. But we think there are some issues that we need to resolve, some further thinking, some further discussion.

And the third -- second and third category is category 2 where we think at this stage we think this is an unworkable position or advice that we will be unable to follow.

So it would be categories 1B and 2 that we look for -- that we would then take on to the bylaws consultation, and hopefully with further calls and further discussions, and we talked earlier, Heather, about we're getting information in hopefully the next

24 hours or so on the IP stuff and we may be able to remove many of the IP issues from category 1B or 2 to category 1A.

So with the caveat that those categories are mental, not fixed and subject to change, let's see if we can't work through some of these.

The first issue on the scorecard was about removing one of the objection processes in relation to limited public interest objections. And I think we clarified in the course of the discussions that those, in fact, should remain for other applicants and that the GAC's concern was more about it being used for them.

I think -- We think that at this stage we can work out a process by which the GAC would not be obligated to use those objection processes in order to give advice. We think that the process that's been suggested, that we're at the beginning of the exercise and the 45-day evaluation process, the GAC would provide us with the advice, which the GAC can always do, is a mechanism we can develop to deal with the GAC's concerns in this area.

We think, as we discussed in the room when this was coming up, that that needs to be subject to some conditions. It needs, obviously, to be subject to the usual conditions of transparency and accountability so that we know what the objection is and where it's coming from, but subject to working through the format and the procedures by which that would be done, we think that the suggestion that the GAC member -- a GAC member could raise an objection, and if the GAC picks that up and brings it forward as advice, that might be a workable mechanism.

>>HEATHER DRYDEN: Can I ask you to clarify. Is that then 1A or B?

>>PETER DENGATE THRUSH: Our current status is 1B because there's discussion to have about the format and the thing.

But as a matter of principle, we think that's a principle that we can work with.

Rita, were you wanting to help with that? No.

And obviously, I'm not sure we need to go on. Some of that was relatively obvious. In the event the board determines to take an action that's not consistent, that's -- the normal bylaw provisions would then operate.

The second topic was about expanding categories to community-based strings. And we have some difficulty with this. And at the moment, we think this is more a category 2 kind of issue.

It doesn't come through to us with any kind of policy development proposal and no support -- obvious place for finding support in the GNSO principles. We can see elements of it in early GAC advice. But we think the way the discussion, including

this morning, is the right way to treat this is to strengthen the objection process, which is the GNSO preferred method of dealing with this. So the objection process method provides a proper basis for that.

We need to make sure that parties with legitimate standing, et cetera, can participate, and we need to be clear about what the appropriate standards are.

So something that we thought we could agree with in relation to this process was the standard that was suggested. The requirement that objectors must demonstrate material detriment to the broader Internet community. We substantially agree. We think that standard is too high and should be worked on to be brought down.

We haven't had time in the discussions that we have had so far to work out exactly what that wording is, so we have put that as a 1B, and further work needs to be done. But that may be the sort of thing I think we may well have off the table by the time we go to the San Francisco meeting.

Staff has been working on that kind of wording and I think staff are reasonably confident that we would be able to address that.

Another one that I know is of great interest to governments is the next one, which is the individual governments -- in other words, when they haven't gone through a GAC process and are giving advice, but where a government is taking an issue, and we accept that many of these matters might be of concern to governments including the one that the representative from Senegal raised, for example, which might be geographical or regional, if a government is bringing that kind of objection, we think that might be a 1B in that we think there may be a principle there that we can -- the government shouldn't pay fees.

I was much helped by Bill Dee's explanation today when I asked that question that governments, in that capacity, are not acting as an interested party in a commercial matter, which is where we had previously held that governments, like any other party, should pay fees. In most of those circumstances, I think we accept the government is acting -- is likely to be acting on behalf of probably unrepresented parties, parties who may not be aware of the process, which is more of a public-interest exercise. So we see a principle there by which we could say that governments would not have to pay fees for making those kinds of objections.

Now, let me immediately move from, if you like, agreeing with the principle to saying there are some major concerns, and as you would expect to see, I stood up immediately and pointed out the risks and the threats associated to the revenue and security of ICANN if we have an uncapped, unlimited ability for anyone to raise objections.

So the issue here is, in fact, creating some mechanisms around limits to what is, in fact, a free check, a blank check. And obviously, I'm sure GAC members have the

same interest that we have in protecting ICANN against that kind of a risk. And we have started talking -- haven't finished -- about the kind of limits that might be put on that. For example, a per-dollar limit, a number of objections limit.

And that's the kind of discussion we will come and perhaps ask for some help from the GAC itself in what are the kind of security, what are the kind of safeguards that this kind of provision would work well with.

So moving, then, to root zone scaling, perhaps something I should have said at the outset, what we have done with the GAC scorecard, partly on advice from the GAC itself, that these are principle matters and we are not to treat these as, if you like, bylaw drafting or amendments to the DAG. You have said you haven't been precise about this as that.

So what we're not trying to do is treat this as contractual editing or contractual term work.

So at a very high level, all the stuff in relation to root scaling is accepted, and comes, really, as a 1A, I suppose. But as we talked about that, there was some recognition, I think, particularly Suzanne was very helpful here and I think people responded very well to the way Suzanne was putting this, that the bullet points from ICANN on this, from the board on this, is there is a commitment to monitoring. There is a commitment to taking any mitigation steps that are necessary. There is a problem to -- There is a commitment to pause and rectify any problems that we observe in relation to the root before proceeding.

Now, there's some issues of practice here. People have talked about doing it after a batch or doing it after a round.

We're looking at a very much more dynamic constant monitoring process. So the implementation of this is slightly different, I think, from the way the GAC expressed it. But as far as we understand it, we are in complete agreement with the principle of monitoring the root, preserving the root, and making sure that nothing ever threatens that.

And the other aspect of that that I think we also have a complete 1A agreement on is the protection of the IANA function and the root itself. And there would be a commitment that the operation of IANA and of ICANN's coordination of the root zone system is not going to be detrimentally affected by any aspect of the new gTLD program.

So as far as the principles are concerned, I think there's total agreement.

I don't know, Suzanne, whether you want to help with any of that, and similarly on any other topics.

>>SUZANNE WOOLF: No, I think that fairly frames where the discussion we had here yesterday was and where the preparatory work was.

Just that we are -- The only discussion we really need to take forward is, first of all, to affirm in front of -- you know, in public, very clearly, the commitment, and that we'll work transparently and towards the appropriate operational requirements.

>>PETER DENGATE THRUSH: We move, then, to another 1A topic, if you like. That's complete agreement as a matter of principle. And we see little implementation difficulty about monitoring the pace and effectiveness of ICANN's management of contract negotiations. The board regards that as part of the normal board supervision of management activities, and we're obviously very conscious of the changes, of the wash of work and activity, et cetera, that's going to come through ICANN once we get past the communications process, once we go through opening up the applications. We have time to prepare for this, but once it's under way, we are all very conscious as a board that proper supervision and proper oversight of this process. And we understand the risks of 300 contract negotiations, et cetera. So that's a 1A.

And another 1A is in relation to board confidence that all of the -- what we have called members of the supply chain, the IANA, the root server operators, et cetera, are sufficiently informed about what's expected about them in relation to their terms of work, that delegation checking, the approvals, the implementation, et cetera. So we are confident about that.

We come, then, to the market and economic impacts discussion, and we think that during the course of the discussion about that, what effectively happened was a reasonably substantial change from what was in the scorecard to what was actually being proposed. And that topic has relatively substantially morphed into a reporting exercise and getting data to help with the reporting for that.

So if it is, in fact, that the guidebook terms were actually withdrawn, then we are in agreement. As a matter of record, if the guidebook statements are still there and the exercise is more than the reporting and getting -- collecting the data, then we have probably got a 2, as a matter of technicality.

Hopefully, we don't have any difficulty with the exercise of the review. There's a number of places where review is included, of course the primary one being in relation to the Affirmation of Commitments. And in relation to collecting the right kind of data to make that review useful, I referred you to the board resolution where we have already gone out and asked the GAC and others to start helping us put together the kind of information that's going to make that review useful.

So in relation to the review, agreement. In relation to some aspects of what was in the scorecard, some disagreement.

One of the elements of difficulty about that is the reality is that applicants are not going to actually give us any useful information about their intentions. We can't keep it confidential. What they would probably give us is business plans, and we all know how useful they are after -- 18 months after operations start.

Registry/registrar separation. I think we have not finished our debate. So I think we will probably stop there, unless -- Any other topic leaders want to come in and add anything to what I have said?

Rita.

>>RITA RODIN JOHNSTON: I just want to make sure, on the scorecard, the limited public interest objection was point 1 and then what the GAC called string evaluation, the procedure for abuse, sensitive strings was point 2. You may have morphed them into one topic. I just want to be clear that the sensitive strings point was made, too.

>>PETER DENGATE THRUSH: Make the point, then, while you have the floor.

>>RITA RODIN JOHNSTON: I don't have the sheet. Do you want me to make the point? I think that the board understands the GAC's concerns about coming in in an early evaluation for sensitive strings. And as Peter mentioned, provided that it's done within the 45-day time period, it's done in a very open and transparent way, including what governments are objecting to these strings, the board thinks that this may be something that it can work with.

>>PETER DENGATE THRUSH: So what we would like to do now after we have finished any discussion people would like to have about that interim report -- and I hope I gave the appropriate warnings and caveats about the finality of this and that it's an interim report. After we have had any discussion, we are going to go back downstairs and carry on. And we will come back, we think, sometime tomorrow morning and be able to give you our current best thinking on topics 5 through to 12.

Question at the back.

>> Thank you. Can I ask Peter for all these things that you have explained to us all this time, to have them written, so it will be easier for not a native English speaker to be able to understand in its detail.

Is it possible to have it?

>>PETER DENGATE THRUSH: Yes, of course, it's our intention to do that. We just aren't able to give that to you now. And we hope to be able to do that as soon as possible, possibly even as soon as tomorrow.

Rita.

>>RITA RODIN JOHNSTON: I think we are actually very sensitive to that, which is why we wanted Peter to tell everybody. The GAC was clear this morning they wanted to have answer on these so we wanted to give people the overall message, but then work on the words which, as you know with our resolutions, sometimes takes a little longer than we all would like.

>>HEATHER DRYDEN: Thank you. I think your efforts to give a sense of your best current thinking is truly appreciated.

And so we value that a great deal.

I understand the transcribing that's taking place is public. So -- Yes. So we have the transcripts from what you have said today, which I think will be a useful reference to GAC members to go to. And we should have that immediately. Yes, it's being posted.

Okay.

So we would have that to refer to.

Are there any clarifications or points in particular that GAC members would like to make before we meet again and discuss your best current thinking and how we may react at this point?

So I see the U.K.

U.K, please.

>>UNITED KINGDOM: Yes, thank you. And sorry for holding things up.

Thank you very much for that explanation. I certainly found it extremely useful.

Can I just check on the economic one? And I expect you are afraid we would come back to this.

The -- We accept -- I think what you said is of course there will be a further study further down the road into the economic impact.

What I think we had asked for -- although I recognize that it was a -- it wasn't simple, was that at least the applicants should be asked to put down something about what they perceived to be the economic, the social value of what they were doing. What they perceived to be a, if you like, a *raison d'etre* for their operation, not simply to make money but to, in some way, increase the economic value of their sector or whatever, and how that would, as I think Suzanne rightly pointed out in our discussion yesterday, would outweigh the potential costs, of course, in terms of the operation on intellectual property or whatever.



Now, I think we fully recognize that -- we recognized during the discussion yesterday that the use of that information is difficult. It's not necessarily immediately applicable to any weighting to any criteria-based assessment. But I still think that many of us would feel that the applicant should at least be asked to go through the exercise. But I understand that you thought that was probably too difficult.

>>PETER DENGATE THRUSH: It's a couple of things. One is, it's not going to be used for evaluation purposes.

Secondly, the difficulty of actually collecting any useful data, what is it you're actually going to ask them? We've already established what the economic reports that we've done by experts and made comment before about the great deal of difficulty of innovation economics.

The cost -- I probably should have stopped and said again that we regard the issue of the costs as being taken care of by the -- which allows -- have been put in terms of the trademark owners' costs, they're being taken care of by -- and we'll come to this when we talk about trademark protection, obviously -- the sunrise and other issues. So we think the cost issue is dealt with. It's really only collecting together the economic benefit argument. We think that that's going to be -- the information you would actually collect under this process would really be of little value. And secondly, we're concerned that if you try to make it of value, you're going to be actually be adding the burden of doing economic studies on every applicant, and we weren't very interested in that. So I think that's why that's a 2 at that stage. If we can clarify that there is a template, for example, or some easy thing that applicants can go through and fill in as part of the application process, and that it would be useful, that might be something we can continue to explore. But other than relatively self-serving applications as to what the applicant was intending, we don't think that's going to be very useful.

>>HEATHER DRYDEN: I have the European Commission and then the United States.

>>EUROPEAN COMMISSION: Thank you. And I'd like to say thank you, I'm sure, on behalf of the GAC members to go away and come back with these views. This is really very concrete, actually. And I think we stand to get traction now. This is why we came here.

I just wanted to make an objection, actually, that from a (inaudible) point of view in terms of process, which, of course, is very important here, that initially we came here for two days, yesterday and today. And then we agreed that tomorrow would be good for maybe agreeing some kind of joint output statement on this meeting. But it seems to me now that with the meetings going on tomorrow, and you will all go away, and I understand it's force majeure we can't avoid at this stage, but I'm

aware that many of the GAC members will already be leaving tomorrow. And I mention it because I think it will have an impact on our ability to kind of maybe finalize some joint output document and also in terms of the board's expectations of how the GAC will react to the views. Because many of those people will already be on airplanes tomorrow. So it's just an observation that this is going to add, I think, more time to the process.

Thank you.

>>HEATHER DRYDEN: Thank you.

United States.

>>UNITED STATES OF AMERICA: Thank you. And I concur, obviously, with everybody else's assessment. This is extremely helpful. This is what we were hoping to have. So it's a great start to getting that kind of feedback.

I would agree with Bill, I do think there are going to be some implications to how long the discussion and the opportunity to get feedback will be extended. So I do think we need to be mindful of that.

But, Peter, to go back to the points that Nigel was trying to raise, we certainly concur. And I think -- I'm not sure I understand your position in questioning the value. From a government public-policy perspective, it seems rather helpful to us to hear from an applicant directly what they think the expected benefits of their proposed string will be to consumers. Because it's not just the cost on I.P. owners, which are a substantial concern. It is the cost to consumers. And it is the potential harms and risks that consumers will be exposed to. So that is what we are trying to assess and understand, because the economic studies that have been conducted to date have actually yielded no data that we can work from. So we are literally grasping at straws, if you will, to find every available tool. And it strikes us that it shouldn't be overly burdensome to ask an applicant to state their case.

Thank you.

>>PETER DENGATE THRUSH: This is something we're obviously going to carry on talking about. The idea is that this is on the agenda. So I don't want to take a lot of time now. I suppose that the answer is -- okay.

>>HEATHER DRYDEN: Thank you. I guess it's a matter of establishing what would be useful and --

>>PETER DENGATE THRUSH: We've asked for that.

>>HEATHER DRYDEN: We can ask experts, I think, was the point that the GAC was making in these discussions, that there are those with expertise that may be able to provide guidance on that.

Mike, I saw your hand earlier.

>>MIKE SILBER: Thank you. I was just going to make the point, either we're going to involve -- engage in the conversation now, which would be wonderful but is going to take a very long time, or we're going to take the point that we have some concerns, we've listened, we think there's value, but we have some concerns and we're notifying you about the concerns up-front, and then we get into the serious work in conference calls, in engagements over the next week before San Francisco and potentially thereafter.

It would be wonderful if we could engage today, but I just think the timing is such that getting into specific topics is not going to be of any value.

>>HEATHER DRYDEN: Thank you, Mike.

In my view, I think this is an opportunity for a clarification and questions from GAC members. That doesn't mean that we have to do this for an extended period.

So I hope you will indulge us for a bit longer.

Sweden.

>>SWEDEN: Thank you very much, Heather. And I also would like to echo my colleagues, that I really very much appreciate this exercise and the effort, actually, you from the board have made to try to come to these kind of conclusions calling our scorecard.

I'm just regretting a little bit that we didn't come into this exercise a little bit earlier, because I have to leave tomorrow. So I really hope that there might be other ways of participating, maybe on the webcast or audio or something. That's something I can come back a little bit later.

One specific or concrete question, according to the scorecard number 3, the root zone scaling, and as you said, Peter, it was more that you actually said it was a 1.a. But you said a 1.a in principle, and that is something I'm not really confident with that one. Because it in principle could mean a lot of things, and, you know, we have detailed suggestions here, actually. So maybe I can take it, we can talk to Suzanne a little bit later. But to be able to really realize it's a 1.a, I need some more details. Thank you.

>>PETER DENGATE THRUSH: I agree with you, Maria, it's a concern. And we're very happy to try to satisfy you on that.

The point was sort of raised -- just one small example. This suggest that is we need to go and set up a root monitoring thing. The answer that came through from the operators is it's already being done. So we don't need to go and set up another one, because there are lots of root server -- what we need to do is make the data available to people and put it in a form where it can be understood. So we don't -- so it's -- that's -- the disagreement is simply about making -- not the disagreement. The agreement is, yes, there needs to be monitoring and reporting, we need to be responsible. We need to stop if there's a problem. That's why I went through the list of, if you like, the principal commitments, which I thought you would be happy with. But we don't think as a matter of mechanics that we need to go and set up a brand-new reporting system, which this calls for, because we're satisfied, and we think if we show you, you will be satisfied that there already are sufficient reporting systems on that. So what we need to do is make those reporting systems more available and other things which we're happy to do. There's so much agreement there that although there's a little bit of tweaking around the edges, we thought that was a 1.a.

>>HEATHER DRYDEN: Thank you for that, Peter. I think as part of the discussions as well on that, there is this need for demonstration, for something written in response to the questions. So that's an important part of what governments are wanting to see. But your point is fully taken, I believe.

All right. Rod, you wanted to comment.

>>ROD BECKSTROM: A small clarifying comment as well.

We did just briefly go over one of the other topics, which was the issue of compliance and augmenting the compliance functions, and indicated, you know, positively. We thought that was a constructive suggestion by the GAC and we would be intending to come back with something in terms of an indication.

>>HEATHER DRYDEN: Thank you.

I don't see any further requests.

U.K.

>>UNITED KINGDOM: Thank you, Heather.

I mean, sorry to come back to root zone scaling.

One of the key points that we wanted to convey in the scorecard is that -- okay, the monitoring systems, you're quite right, we understand that there are effective actions in putting into place those monitoring systems. But what's not clear and

what's not described in the guidebook is the processes that flow from data coming through the monitoring systems, what -- such as restorative measures and so on.

So what we're really looking for is some agreement of commitment to describe in the guidebook what those processes were so everybody, all stakeholders, are clear what would be the consequences of something being triggered, who would be responsible.

>>PETER DENGATE THRUSH: Two or three responses. The primary is it has nothing to do with the guidebook. That's all in relation to the IANA management. And we can show you where that kind of stuff comes from, or if it's not appropriate - - actually, in our view, it's got nothing to do with the guidebook, which is to tell applicants how to go through things. It's something that you really should be able to go to and get your concerns satisfied. It's not a question of it not needing to exist. It's a question of where.

Then the next question is root server operators can tell us where it currently is and we can make it more available. So there's no disagreement in principle that you've got to have it, you've got to know where to go. We agree with all of those things. We just think they are in other places and can be brought forward and made available.

In relation to the suggestion that you want to know what all the restoration steps are, I think we point -- what the root server operator -- if they knew what was going to be able to go wrong, they would be able to fix it in advance and it wouldn't break. Disasters are all about things that you don't know about. So we can't tell you in advance what the restoration steps are going to be because we don't know what the disaster is. But what we understand from your question is who is in charge of this, what are they doing about this, where do we go if we have a problem, those kinds of questions, very happy to -- that was a commitment from the root server operators to make that information which is currently available more available, put that in a format that you can share with your minister, if that's your -- we're very happy to -- So that's why we're saying there's complete agreement in principle about this. It's there, and we want you to have this and we want you to be happy that you've got it and that you can share it.

>>HEATHER DRYDEN: Thank you, Peter.

>>PETER DENGATE THRUSH: And Suzanne can comment if I've committed you to more than you were prepared to commit to, Suzanne.

>>SUZANNE WOOLF: No, Peter. I just -- I'm maybe prolonging this longer than it needs to be, except I think it brings up an important point about how we did this exercise, which was that we went through this much more in-depth discussion on this issue and on some of the others. And I think that we abstracted away maybe a little bit too much in the interest of time and asking Peter to do a good overview.

Because the other aspect, as I recall from our conversations here and in general, was that there's a transparency consideration about making sure that applicants and everybody knows what to expect in the very, very unlikely event that something unforeseen goes wrong. And I think when we did talk about that, the commitment is whether that ends up in the applicant guidebook as such or not, the commitment is that that transparency will be there. And I think -- and that's actually a pretty good illustration. I'm willing to be the poster child here of what I think Peter meant when he said, well, this is -- in principle, you know, we're -- maybe have some more to ponder together about exactly where things need to go and exactly the best way to get the transparency you're after, but we do understand that that's the concern, and we support it.

>>HEATHER DRYDEN: Thank you, Suzanne.

I have Brazil asking for the floor.

>>BRAZIL: Thank you. Just one clarification and one comment.

Regarding -- I don't know if I missed something, but regarding the subject of root zone scaling, it was one of the points highlighted by the GAC that this topic number 3.2, the board -- it's a proposal by the GAC, the board commits to defer the launch of a second round or batch of applicants unless an evaluation shows that there are indications from monitoring the root system and so on.

So just a clarification that the board considers the possibility, if necessary, to have this -- this action, just as a safe way through establishing a control and secure process of new gTLDs. This is a clarifying question.

And, finally, my second comment is my concern about the -- these two open questions to be solved regarding the community-based string, expanding categories of community-based strings.

It was a very innovative approach, I believe, from the GAC. I understand that these -- we need more thought about the board about it -- from the board about it. But I think this -- when we talk about sensitive strings and -- it's -- every action is interrelated. So this is something that we require as other additional thought over your reaction. This is a very sensitive issue with regard -- from the perspective of public-policy interests.

Thank you.

>>HEATHER DRYDEN: Thank you, Brazil. I think that points to the need for the GAC to be able to conduct some analysis of your final written decisions, you know, in good order to actually continue the exchange, the consultations on this.

I saw Steve asking for the floor.

>>PETER DENGATE THRUSH: Can I just answer the first question from Brazil. The answer that I gave was, yes, ICANN will commit to monitoring and to mitigation as necessary in relation to the root.

And ICANN will pause and rectify problems before moving forward.

I think what we don't want to get caught up in is the idea that you do a whole lot of work and then you stop and hold everything up and do a review is not how it actually -- the monitoring is constant. And so the mitigation occurs at any time that it's required. You're crazy to see a disaster looming and be committed to wait until we'd finished a batch or round. The answer is we need to take action when it's required. So that's the commitment.

>>HEATHER DRYDEN: Steve.

>>STEVE CROCKER: Well, I was going to try to say exactly that, but it's even more heartwarming to see a lawyer explain it.

That is the point exactly, that it's a continuous process, that it's much stronger than we'll get around to it in -- as a single exercise. It's a continuous process. So the response is much stronger than you're looking for, actually.

>>PETER DENGATE THRUSH: If I can move on. Because I actually realize that Ram Mohan had asked me to take care of the items that he raised. And it was on a separate document. And I can come back to that now. These are some of the items of consumer protection.

The point of contact for GAC abuse, we've categorized that as a 1.b simply because of the matters that we raised earlier. We need to understand exactly what the -- at the moment, we feel it's a little bit too broad in scope. We're not quite sure what the range of agencies are. We're not quite sure what the range of activities, we're not quite sure about the jurisdiction point. I think, generally, we'll solve all of those. We're reasonably confident we understand what you want. But as a technicality, we can't just say yes to that immediately. We're also not quite sure about what assistance should be able to be summoned. We'd like a little bit of thought about the limits to assistance that you can ask from a registry. That's only because we're going to put these as contractual terms to the registry operators and we need to have some clarity about what their obligations are.

So I think we accept the principle. We need to just sort out about the wording.

Similarly, in relation to effective GAC compliance, that was the point that Rod reminded me about. Yes, there's a 1.a acceptance, if you like, of all of the elements of that, and be sure ICANN's contract compliance is adequately resourced. The answer is yes.

The vetting of certain strings, we have this currently as 1.b or 2. We haven't quite categorized that finally. But we have problems with that, some elements, but can accept other key elements of that. And it's really around this new concept of generally regulated industries and trying to create separate rules for those kind of unscoped exercise.

We think that, again, the -- we've got sufficient cover in other places. There's the 45 -- there's the original, there's the early warning, there's the GAC advice, there's other mechanisms that will actually deal with this that we don't have to go into this particular problem. So that's still -- that would still be on the table.

So thank you, Heather. That's -- that is the end.

>>HEATHER DRYDEN: Thank you, Peter.

Unless there are additional comments from the U.S., I see. And then I think we can move to close fairly soon.

United States.

>>UNITED STATES OF AMERICA: Thank you.

And thank you, Peter and Ram for the clarification there.

I guess on the vetting, just an alternative suggestion and perhaps make sure that the vetting of all applicants is at a very, very, very high level. Because, from our perspective, you are about to enter into negotiations potentially with a fairly large number of applicants with whom you may have had absolutely no prior contractual relationship with, no prior working relationship with, and it would be truly, truly regrettable from our perspective -- more than that, but at least, at a minimum, regrettable -- should the absence of serious vetting that did not disclose that an applicant actually had been the subject of a civil or criminal fraud investigation and somehow that managed to, you know, slip out of the net and then use this top-level domain to in fact continue the same activity. That is exactly what we are seeking to avoid. So I just wanted to flag that as a very strong concern from governments' perspectives.

Thank you.

>>HEATHER DRYDEN: Thank you for that, United States.

Any other clarifications, comments?

I see none.



>>PETER DENGATE THRUSH: In that case, again, if I can say thank you for the input that we've had from the GAC. We're going to go back downstairs and keep working. So if I could have board members back downstairs, please. We will work through this until we have. We would hope to come and give a summary report tomorrow morning.

So -- and then at some stage, we need to write up our response.

>>HEATHER DRYDEN: Thank you.

If you can let us know the time I guess via me so I can send a note to the GAC list with those details.

And for the GAC, if we can meet in room 300 in about ten minutes.

>>PETER DENGATE THRUSH: Well, taking a stab at it, I would say we'd be ready by 9:30 to give the report on the -- on the remaining ones.

>>HEATHER DRYDEN: 9:30 it is.

>>PETER DENGATE THRUSH: Do you want to make that point?

We'll give another report at 9:30 on all that we can.

>>HEATHER DRYDEN: Sweden, you had a question?

>>SWEDEN: No, I just want to wish you good luck for tomorrow.

>>HEATHER DRYDEN: Yes, very appropriate. Good luck.

>>SWEDEN: And I also want to say thank you to everybody and everything like that. But I also say if it is a possibility to participate tomorrow remotely, I would appreciate it.

>>PETER DENGATE THRUSH: Just had actually advice. 10:00 apparently suits people for other reasons. So we'll be giving another interim report at 10:00 on the remaining -- on where we're up to with the remaining issues. Hopefully, we'll have dealt with all of them. But as Rita is pointing out, we're still waiting for quite a lot of information with regard to trademark issues. Thanks.