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PRAGUE – GAC/GNSO Joint Session  
Saturday, June 23, 2012 – 00:00 to 00:00  
ICANN - Prague, Czech Republic

CHAIR DRYDEN:

Good afternoon, everyone. If we could begin to take our seats, we can begin the session.

Good afternoon, again, if you could please take your seats so we can begin the session.

Thank you, everyone. So we're here to meet with the GNSO. And, before we begin to go through the agenda today, I would first like to thank the GNSO for being so flexible in changing the time of our meeting. It really is appreciated by the GAC. As you are probably aware, the GAC is trying to ensure that it is making decisions and putting in place the processes that it needs to in terms of early warning and GAC advice and objections and so on.

And, as a result, we're trying to hold the meetings that we need to early in the week and organize those with others in the community in a way that allows us to give the appropriate level of attention to those things. So we do appreciate your being flexible and meeting with us this afternoon instead of tomorrow. And we hope that we can have a good exchange this afternoon because meeting with the GNSO, as always, is a priority for the GAC. And that is certainly the case this week as well.

So welcome. Thank you.

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And I'm here with Stephane Van Gelder, the chair of the GNSO. And I, of course, am the chair of the GAC.

And so we have a few agenda items proposed today. For GAC members, the materials are primarily the loose materials that were added today in addition to your binder. So you can look there, for the most part. And then there are additional materials located in the binder as well. But most of them are here. And for one of the topics, we will have a slide presentation as well. So we will be looking at that on the screen.

So Stephane and I are proposing to begin with the topic of the expected impact of the new gTLD program on the GNSO constituencies. So we are aware that, in running the current round for new gTLDs, there are various kinds of applicants or applicants that may have had a different role and participated in a different part of the GNSO previously. And so this is, perhaps, an interesting topic to have now Some discussion on in terms of how this is going to change the approach in the GNSO or how you are organized and how the GNSO may be planning for that or expecting things to, perhaps, change.

So with that, Stephane, can I hand over to you to start?

STEPHANE van GELDER:

Thank you very much, Heather. Let me just start by saying that we are, as usual, very happy to meet with the GAC. We thank you for welcoming us here and allowing us to have this exchange with you.

I will also just add that for any of the GNSO councillors that are in the room, please, if you do want to speak, try and, if you don't have room at

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the table, try and find your way towards a microphone or be close to one so that we can have a fruitful discussion and you can have access to a microphone when you do want to speak and just don't forget to mention your name when you take the mic so that everyone knows who you are.

So, as Heather mentioned, we wanted to start the discussion with a look at the expected impact of the new gTLD program on the GNSO groups. As you know, the GNSO has two houses. One is the contracted parties house, which has two stakeholder groups -- the registry and the registrar stakeholder group. The other house, the non-contracted parties house, has two stakeholder groups as well -- the NCSG, non-commercial stakeholder group, and the CSG, commercial stakeholder group, and individual constituencies within those stakeholder groups.

So, with 1,930 potential new gTLD applicants coming into the ICANN world in the next few years, the question, naturally, comes sort of the impact on all of us and, more specifically, the GNSO. I'll just shortly give a short introduction to this topic and then open it up for any comments from my fellow GNSO councillors and, obviously, any comments or questions from the GAC members.

I'd just like to start by saying that this is very much a topic that, obviously, we've done some thinking about within the GNSO and within the GNSO Council. And work in some of the group is already under way in looking at the possible impact of the new gTLDs coming online and the applicants coming into the ecosystem. So that's an impact that, as of today, we're, obviously, not able to gauge in any meaningful way beyond the natural expectation of the numbers, the numbers of

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applicants that we've seen and the numbers of possible new TLD registries that we can expect as a result of those applications that were revealed by ICANN very recently.

So, at the moment, we are looking at those possible changes. We feel very strongly that the GNSO has the ability to accommodate newcomers, if those people want to join the GNSO process. There's no expectation from us of substantial change. We -- just looking at the numbers for now, we don't exactly know the impact that we should expect. But we are very confident that we can manage the changing environment as we go forward.

And all this is also in the light of one of the processes that ICANN has in store for the GNSO, which is a review that is expected to be initiated next year, I believe, and which is an ICANN-mandated review on the GNSO. And we're, obviously, looking at this question in the light of that. I'm sure you or most of you know that the GNSO has just come out of a review process that led to the bicameral structure that I described earlier on. It meant a lot of work for this community over a great number of years, and it used up a lot of our resources. So this is, obviously, something that we're giving very careful thought to. And, in the light of the new gTLD process, we feel it may be prudent to look at possibly asking for or attempting to arrange a deferral of that review for at least a year so that we have a better chance of gauging the impact of the new gTLDs on the GNSO community. To us, it makes little sense to begin a review before we have a full, comprehensive picture of the new landscape.

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So, with that in mind, and as an introduction to this topic, let me open this up to possible comments from GNSO councillors or possible questions from the GAC. Thank you.

CHAIR DRYDEN: Jonathan, please.

JONATHAN ROBINSON: Thanks. It's Jonathan Robinson. I'm a representative of the registry stakeholder group, from the contracted parties house, a councillor on the GNSO.

And, picking up from where Stephane has been talking prior to this, it's clear that we can't predict the exact outcome or the impact of this program for a myriad reasons. But, within the groups that make up the GNSO and such as our stakeholder group, we've also, obviously, anticipated this change for some time.

So I can give you the example of the work that's gone on in the registry stakeholder group where, in particular, we worked on revisions and modifications to our charter to accommodate observers which correlate, really, with gTLD applicants. So, in a sense, can begin to engage with applicants and involve them in our processes such that they were brought on stream and into the stakeholder group in advance of becoming live operational registries and also the addition of interest groups within those observers, observer interest groups. So I think right now, our approach has been to anticipate an evolution of the stakeholder group, not a revolution. And I think one factor in this is bearing in mind that we anticipate that some of the new participants

may not be represented themselves directly. In other words, they may choose to employ consultants who may have worked with to represent themselves and aggregate their interests within the stakeholder group. So those changes are things we can anticipate but we can't predict specifically. But, in practice, as I say, we've made the changes to our charter in order to accommodate this. And, in fact, sent the changes to the ICANN board, communicated those changes to the charter, and seen quite significant recent change where we've seen a rapid admission of around 25 observer members to our existing group, which was previously around 20 members.

So we've begun to absorb those observers into the group, and that seems to be going well. As it happens, that change, that anticipation aligns with a request that we receive from the board -- I believe it was at the last ICANN meeting, specifically, in this direction to begin to, if we haven't already, which we indicated we had, think about and work on the kind of changes that we might anticipate for the new gTLD program.

So I think we can say, from the registry stakeholder group as one group within the GNSO, we've begun to work on that. And, clearly, we'll feed those changes up into the GNSO Council as well to the extent that's relevant. Thank you.

STEPHANE van GELDER:

Thanks, Jonathan. Thomas.

THOMAS RICKERT:

My name is Thomas Rickert. I'm one of the NomCom appointees to the GNSO Council. And I would like to share an observation with you in addition to what Stephane and Jonathan said.

We're now worrying about the constituencies to explode by the sheer numbers of new participants entering the ecosystem of ICANN.

But we also have a concern that a lot of the applicants do not really want to get involved. So, in combination with thinking about potentially required restructuring, we also need to focus on reaching out to the new participants in order to get them engaged and participate in this multistakeholder approach.

CHAIR DRYDEN:

Thank you for that. That's really useful. And I think it might be appropriate to share some information in kind with you along the same lines.

In light of the current process and the role that the GAC is playing in new gTLDs, we've also seen an increase in interest in joining the GAC, whether it's from a government to become a member or to update their representation in the committee or whether it's interest coming from an intergovernmental organization that would like to participate as an observer in the committee. We've seen a marked increase in that. And so that's overall certainly a positive thing to have good representation, broad representation from governments, from various regions. So -- so we're seeing a shift here as well similar to what you're describing in your stakeholder group.

EU Commission, please.

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EUROPEAN COMMISSION: Thank you, Madam Chair. And thank you to the GNSO chair and to the whole GNSO for being here with us today.

I have a question to assure that I have correctly understood the -- what the GNSO chair has said. You do not have, if I understand correctly -- you do not have precise numbers concerning how many of the applicants for the new gTLD program are or are not currently members or in some way represented in the GNSO. Is my understanding correct?

STEPHANE VAN GELDER: Absolutely correct. We don't have those numbers.

HEATHER DRYDEN: Are there any other comments or questions that people may have?

Please, Argentina.

ARGENTINA: Thank you, Chair.

Hi, Stephane.

I have a question, among the almost 2,000 applications, there are 24 from Latin America and 17 from Africa, if I am not mistaken. How does the GNSO would like to approach the outreach to those regions that have so few applicants and so few potential new representatives of these constituencies?



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STEPHANE VAN GELDER: Thanks, Olga. I'm looking around to see if any of the GNSO Councillors want to address that.

Jeff.

JEFF NEUMAN: Thank you, Olga. That's a good question. My name is Jeff Neuman, I am one of the vice chairs of the GNSO Council.

From some of the applications that I looked at, it doesn't look like many of them are too new to the ICANN process. Either they have back-end registries that are involved in the ICANN process or they have hired consultants that are involved, or, in fact, some of them from the African region have previously gotten involved.

So I think it's a really good question. And as Stephane said, we don't have the numbers, but I think the good news is that they have independently reached out to certain parties that are already involved in the ICANN process.

And to the extent that we do not see them naturally coming to us because of their other connections, we certainly have an interest in reaching out to them once things settle down a little bit and we know who ultimately will become TLDs; right?

At this point in time, we have applicants who have 1930 applicants, but at most there's somewhere around -- I don't know the exact number but 13- or 1400 total strings or total entities that could become registries because of contention. And that's if everything gets through --

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So once that settles out, I know we've talked about in the Registry Stakeholder Group reaching out to the new registries that are in that process to get them to join our stakeholder group.

HEATHER DRYDEN:

Thank you, Jeff.

Italy.

ITALY:

Thank you, Chair.

So I understand that it is premature to imagine the impact on GNSO coming from the new gTLDs from this first round. And from a market point of view, it is certainly justifiable. But since the family of the gTLDs is going to numerically increase quite -- not -- very significant from the 22 present registries to hundreds or thousands, and then there will be also a future call for applications. So I wonder, and I ask you if you are also trying to evaluate, coming from the list of the 1930, the typology. The evolution of if this is in line with the expectations of the users, with the expectation of the private sector. And where this evolution of the registries is going to come.

And I'm asking this because sooner or later, I don't think when the review panel on new gTLDs envisaged in the Affirmation of Commitments will be activated, but certainly there will be external opinions -- I mean external from ICANN -- that will try to judge the evolution of the domain name -- the generic quality.

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So I think that you as the present Supporting Organization should be starting to elaborate these kind of evolutions. Can you confirm this?

STEPHANE VAN GELDER: I can just -- a short response, and others may well want to chip in. But as was previously mentioned, the GNSO is a structure that represents groups. And each group has, according to its own interest, begun to look at the potential impact of these processes.

So -- of this new landscape. So some groups, as Jeff and Jonathan mentioned early on, the registries, the registrars, also the group that I represent and that has two other representatives on the council, have -- we've begun to look at, obviously, the format of or the origin of or the makeup of the potential applicants. Don't forget that this list was released to us a couple of weeks ago, so there's not been that much time to analyze anything in depth. And the list was -- contained a lot of surprises to a lot of people.

So there's still probably a fair amount of analysis to be done on the list, but it is very much true that the council, as the sum of its groups, is already looking at this because each group has begun to look at this. And there is a potential impact on the makeup of each group, be it from both houses.

HEATHER DRYDEN: Norway, please.

NORWAY: Yes, thank you.

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And thank you for the introduction -- introductory comments and remarks.

Just an observation of, of course, as you said, it's premature, but of course I would expect that when we refining and redefining the charter in terms of reference and so on, of course now there will be quite a lot of new members as registries, for example. And I suppose, then, you will maybe redefine the representativeness to the GNSO Council, how many council members come from the different constituencies. And per definition, I suppose, the new types of sort of categories of registries will then kind of constitute new kind of constituencies in -- sort of speaking of community based or geographic ones and so on.

So that, I suppose, will impact on how the GNSO Council is then represented and how many representatives from the different constituencies are in the council and so on.

But I suppose those are things that you will have to look at when you have had more time and actually evaluated the numbers and so on.

Thanks.

STEPHANE VAN GELDER: Thank you.

If I can just take that comment as a question and just respond to it.

I think it's a very good question. I think it's one that is already partly included in the current makeup of the council that stemmed out of the review process that I mentioned earlier on.

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The bicameral structure and the, more specifically, the stakeholder group and constituency structure, which is a new structure, for those of you who are familiar with the GNSO Council before this review and the restructuring process that went on out of the -- that resulted from the review. Before, there were no stakeholder groups.

So the stakeholder group is a body or a structure that enables constituencies to be created and is designed to allow for changes.

So, for example, since the new structure has been adopted, we have seen new constituencies be created. I believe the latest one is the NPOC which is -- I forget what the acronym means, but that's a specialty of ICANN that we have acronyms that we forget. But it's a constituency that is part of the Noncommercial Stakeholder Group and part of that house and allows increased participation from people that were not included in the GNSO process before.

So one last comment that stems from your comments is that I think your comments were more specifically aimed at Registry Stakeholder Group, because you were mentioning comments about the impact of the new registries. Perhaps -- I saw Jonathan put up his hand, I know Jeff wants to answer as well. Perhaps people from that stakeholder group will be able to provide an answer.

HEATHER DRYDEN:

Thank you for that, Stephane. Perhaps a few more comments to go through the speaking order we have now and then we can move to the next agenda item.

So we had Jonathan and then Jeff.

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JONATHAN ROBINSON: Thank you. It's Jonathan Robinson.

Just a brief remark, really. And one other area which I didn't mention in my other remarks which we might anticipate is that new entrants may -- whilst they might notionally be registries, they may elect to participate in the GNSO via another route or in more than one stakeholder a group or constituency. So that's something we've anticipated as well.

And the way in which we have dealt with that, in the Registry Stakeholder Group, they are open to participate, but to the extent that they are voting members, that that same entity is a voting member in another portion of the GNSO's structure, they need to have a gap. They need to resign from being a voting member in that area before becoming a voting member in the stakeholder group, we might anticipate that that would be vice versa. But in any event, the flexibility and the likely permutations of how things might go in future where entities might select to be in alternate parts of the GNSO structure.

HEATHER DRYDEN: Thank you for that.

Jeff, please.

JEFF NEUMAN: I think the one point I just want to leave everyone with is something that Jonathan had said, but a little bit variation, is that the structure right now is flexible. It's flexible enough where I don't foresee any

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major changes to the GNSO Council, number of representatives, number of different other groups that might be created.

There could be constituencies created, but just like in the business constituency where there is a million different types of businesses that are all covered under one constituency, whether you're a single registrant TLD, a city TLD, or a generic top-level domain, a brand TLD, whatever you want to call it, I think the structure right now is flexible enough to adapt to represent all of those interests. And the Registry Stakeholder Group is one where there's a process to create constituencies, additional ones, but also a process to create interest groups on particular issues where it may not be a fundamental difference in general between different types of TLDs but maybe specific to an issue.

So, you know, we've actually spent a lot of time within the registries to recreate this charter over a number of a couple of years in anticipation of this, and at least the Registry Stakeholder Group, I believe we are ready for this challenge. And we don't know what's coming down the road, but we think we're ready for it.

HEATHER DRYDEN:

Thank you, Jeff. I see no more requests to comment on this, so next up we have, I believe, a presentation by Steve DelBianco on the topic of consumer trust choice and competition, a working group that has been set up to look at those issues.

So, Steve. Good, you are at the front table. Great. If you could go ahead, please.

STEVE DELBIANCO:

Thanks, Madam Chair.

Jeannie, would you go to the second slide? Because the first question we would want to answer is why do consumer metrics even matter? Especially why do they matter to governments and to the GAC?

And I would point you to the Affirmation of Commitments from 2009, which required these four reviews of ICANN. You're all very familiar with most of them, but there's one that we haven't done yet, is review a 9.3, which is a review of the extent to which the gTLD expansion has promoted consumer trust, choice and competition.

Now, that same review will also go on to look at the effectiveness of the application and the evaluation process, and it will also look at the safeguards and the effectiveness of safeguards put in place to mitigate issues involved.

So you will recognize a lot of those words from the Affirmation, but what do those words mean? And that became the challenge.

In December of 2010 at the Cartagena meeting, the ICANN Board did a resolution to request advice from four groups; right? The ALAC, the GAC, GNSO and ccNSO. The Board asked for advice on establishing definitions for three key phases: consumer trust, consumer choice, and competition. They also asked for measures or metrics that could be put into place to assess against those definitions, and the Board also asked for three-year targets on those measures, even though the Affirmation said nothing about three-year targets.



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I think that there's a good chance that if we come up with good definitions and metrics, it will help ICANN to manage and measure the actual gTLD program well in advance of the beginning of the review that will occur.

Jeannie, if you go to slide 3.

Some more recent developments. In May of 2011, the GNSO and ALAC members began to meet and discuss how to respond to the Board. And then in September of 2011, GNSO Council responded by chartering a working group that would draft our advice from GNSO to the Board. This has been a wide-open working group for cross-community participation, and I'm happy to say that the ALAC members -- ALAC leaders have been very active on that group.

I should say also that the work of this working group and the advice provided to the Board, it really can't, and it's not intended to limit what the Affirmation or reviews team will do when it convenes, probably organized in late 2013 and will begin it's review in roughly 2014, this time of year. We hope they will work off of the definition and metrics we come up with, but there's no requirement that they do. Like with all review teams, the terms of reference for review team is something they have an opportunity to define.

We posted our draft advice for comment in February, closed in May of this year with about a dozen substantive comments. We have reviewed about a quarter of those comments. They are nearly done and we will finish next month.

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Jeannie, you can skip slide 4 and go right to 5 and I want to show the GAC members a couple of definitions we have come up with and this is after incorporating a lot of input from public comment.

The definition of consumer became our first challenge. And we said that the consumer, for the purpose of consumer trust, are actual and potential Internet users and registrants. So folks who have domain names, folks who want domain names, are actual and potential registrants, and of course Internet users would represent both those who already use the Internet and have to figure out how the new labels all work, but it also includes potential Internet users who, perhaps, prior to the new gTLDs couldn't do labels and e-mail addresses in their own language and script.

So the first definition is the consumer trust definition. So it's the confidence that consumers, as defined earlier, actual and potential users and registrants, how much confidence do they have in the DNS. And it has three elements. We want to measure whether they have trust in the consistency of what the DNS does for them, which is resolving domain names. We want to measure their confidence that a registry operator for a new gTLD is fulfilling its proposed purpose, think question 18 in the application; we want to know whether they are complying with ICANN policies, and whether they're applying and meeting applicable national laws. So this ought to be of vital importance. And I put "applicable national laws" in red to draw your particular attention to that because the extent to which the expectations of a registrant are that the registry operator and registrars serving a new gTLD would have to comply with the laws that govern where they're located as well as the people that they serve.

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We also said that the registries' proposed purpose, or question 18, is also very important to GAC because I realize that the governments and GAC may rely on an application's answer to question 18 when you decide whether to do an early warning or whether to file an objection or ask questions.

So the working group realizes that it's important to look back at what they said about question 18, the proposed purpose of the TLD. But it isn't something that's contractually binding, but it's important to look back and understand and measure the degree to which the TLDs have pivoted and changed and evolved one, two, and three years down the road.

And finally, we added this in response to one government's comments. We added a notion of confidence in ICANN's compliance function.

Jeannie, if you can move to slide 6, it's another set of definitions.

So the definition for "consumer" is simply repeated here. It's the same definition.

So we were asked per the Affirmation and the resolution to define consumer choice. We said consumer choice was the range of options available to consumers -- which is, again, users and registrants -- for domain scripts and languages, and for TLDs that offer meaningful choices, such as the proposed purpose and the proposed integrity of domain name registrants.

So a registrant wanting to sell bicycles might be delighted that they now have a choice. They could have picked com and biz, but now they can also pick dot bike, if that makes it through.

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By the same token, they might want to join a TLD where there has been significant restrictions in the terms of service for registrants. Special purpose and community TLDs. So that represents choices to a registrant deciding where to put her business. And there's an investment they make far in excess of buying a domain name. They've got to put it on their business cards, the shirts that their employees wear and on the truck and on the billboards. So it's a big investment, and they want to rely up the integrity and promises made, and they want to have some variety there.

And finally, the third definition was competition. We said competition was going to be the quantity, diversity and potential for market rivalry among gTLDs, TLD registry operators and registrars.

A few more slides. Jeannie, slide 7.

I wanted to briefly summarize some of the key issues that our working group is grappling with right now and that I hope the GAC members will be able to pay attention to as well.

We have 45 different individual metrics and if any of you have looked at our draft advice you see for each one we define the metric, where the data would come from. We try to be up front about potential challenges of getting the data. Costs in the case of surveys.

It's a combination, too, of surveys and statistics. Many statistics include costs. And there are some of them are relative to legacy gTLDs, the 20 or so that are in the root today, and some of them are relative to prior year. So you would look at the new gTLDs as a group and see how are

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they performing on a given metric from year to year. So the trend is important.

Not all of our metrics are going to have three-year targets. They weren't appropriate for all of them, in our opinion. They aren't in the Affirmation but the Board asked for it so we're doing our best to provide it. And believe me, none of these measures are intended to steer an individual registry operator or drive policy development. It's as if my fourth grade daughter has a report card with 45 metrics on it for all aspects of her behavior, and she gets graded on them all. And I hope she is cognizant of all the things she gets graded on, but you realize you don't change everything you do in response to one single metric. They are taken as a whole, and they are not enforceable in any form of a contract.

The second bullet up there was the notion of user and registrant surveys. We're going to try to do annual surveys, combined surveys of users and registrants, combined in the sense that we want to measure the choice and the trust elements. So you would ask people about their perceptions about trust in the new gTLDs versus the prior gTLDs. Ask them about their experience in being able to find the content they are looking for given that the extra 1400 labels could make things, well, easier in some ways and maybe more confusing in other.

We are going to ask them about their experience with phishing and malware that might have been abusing the DNS with the new TLDs, and of course cybersquatting.

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With respect to consumer trust, I want to emphasize that pursuant to the Affirmation and the Board's resolution, we are looking at relative incidence of things like DNS abuse. Let me give you an example.

If you are looking at cybersquatting issues that arise in UDRP or URS complaints, you couldn't just measure the raw number of complaints in the new space and compare it to the raw number of complaints in the established space of hundreds of millions of legacy TLD names.

You have to do it relative to the number of what? The number of registrations. For instance, if you had a thousand UDRPs and a million registrations, that's a relative rate of 1 per thousand. So we'd compare that in the new -- in the legacy. Same thing for registry operators. If we're going to compare contract breaches and compliance notices, you'd have to compare the rate amongst the 1400 registries running in the new space to the rate in the 20 or 22 that run in the legacy space.

With consumer choice, we're trying to say that when a registrant selects a registration in a new TLD, we're trying to discern can we understand when they did it for defensive purposes? That is a very imprecise concept. We are endeavoring to come up with ways to approach, to zero in and triangulate on how many and the cost of registrations that are defensive. For instance, we'll look at the registrations in the new space that occurred during sunrise out of the trademark clearinghouse and suggest that that is a proxy for defenses. We'll look at the number of registrations that simply redirect to a legacy TLD label and say that is also a proxy. Taken together, I hope that the data will reveal, to some extent, whether two or three years down the road whether the new gTLD space has really expanded to where those labels pointing to

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genuinely new content and genuinely new innovation and not just redirecting to legacy content.

On competition we wanted to look at wholesale and retail pricing of domain registration and the quantities there. And our proposed metrics included comparing those prices. The U.S. government was one of the folks that commented to the working group. And they also were keenly interested in even weekly data on revenue and registration volume both for legacy and new gTLDs. ICANN legal has advised us, though, that they're a bit concerned about collecting, comparing, and then sharing non-public price data.

So we duly noted the concern, but I believe the working group will simply recommend that a third party be hired to collect and analyze the data and then share only aggregates and statistics and measures without revealing what the wholesale prices are if they're non-public data.

And, finally, let me just suggest that the U.S. government comments with respect to cost and benefits -- the U.S. governments comments to the working group suggested that it was really important for us to measure the benefits of new TLDs and see that they would outweigh the costs to consumers and other market participants. That phrase is probably familiar to many of you on the GAC because I believe it was a GAC position that was stated earlier when the GAC did the economic studies or when the GAC commented on the framework for new gTLDs.

Well, we met with the U.S. government representatives to reconcile that because that comment of total benefits exceeding total costs is certainly in keeping with what GAC has asked for, but it is not in the

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Affirmation of Commitments. The Affirmation of Commitments doesn't require that this review team measure the total number of benefits and weigh it against the cost and try to reconcile that. So the working group will not try to capture all possible measure of benefits and costs. However, many significant costs will be measured. And we trust that that will be helpful to the GAC. And, finally, slide 8, Jeannie, is a timeline. So we can see how this all fits together. The council is going to get our draft advice from the working group in July, early July. We hope they'll consider and move it along. But, at the same time we hand it to GNSO Council, we'll share with ALAC, ccNSO, and GAC. So we do so because we want to invite you to use it as a starting point. You may want to wait until GNSO Council endorses or otherwise amends the advice before you use it as a starting point. That's completely up to you.

The board can probably then consider all advice, not just from GNSO but from ALAC and the GAC. If they consider all that advice, they could well adopt definitions and metrics in advance of the launch of new gTLDs in mid 2013.

So that means the staff of ICANN can begin the data gathering, slight modifications to systems to gather data they don't have, begin to put together surveys and survey vendors who can go out and measure the data we need. And then remember the affirmation review team that started all this off. The affirmation review team has to begin its work in mid 2014 and finish up probably in 2015, if it takes a year like most of them do. That would mean that the team would be put together probably in late 2013 and begin its work in 2014. That's one year after the launch of the new gTLDs. So, to conclude, Madam Chair, this advice we're putting out together could be really valuable in measuring the



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success of the new gTLD program. As all of you have heard many times before what gets measured is what gets done. Thank you.

CHAIR DRYDEN:

Many thanks for that presentation, Steve. That was really a good overview of the issues that are being considered by the working group. Thank you, in particular, for the timeline. That's very useful to us. As you know, we are continually trying to assess where we need to place our focus in the GAC -- and we have quite a broad remit -- and identify when and where we really need to be focusing our attention. And that timeline really helps set out for us a way to contribute to the questions that are being raised and addressed by the working group. And the board has asked the community to comment on I think there's a range of issues that you have pointed to that are of direct interest to governments.

And, of course, in future rounds and with the review team, we would be quite interested in knowing what some of the impacts are. And, as I recall, the GAC has advised, previously, for the new gTLD program that there be a means to evaluate and really get a good grip on what have been some of the benefits versus costs, as you highlighted in your presentation.

So, at this point, are there any comments from GAC members or questions for Steve or the GNSO? I see the UK, please.

UNITED KINGDOM:

Thank you, Heather. And thanks very much to Steve for a very useful and comprehensive presentation. It's certainly -- it certainly is

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incredibly valuable work. And I think it's -- anticipates a very important AoC review, as you've underlined throughout. And it's going to be a great help to that how you're responding to the board requests and how you're planning the work ahead. It's very helpful and very reassuring.

As Heather has pointed out, this is an issue of great importance for governments. And, certainly, a lot of governments will be consulting their consumer protection experts on new gTLDs, the gTLD applications that have come in, and generally on the -- on the way ahead for ensuring that consumer welfare is fully taken into account in this whole process of expanding the domain name system and that issues about choice and competition and innovation of content, which you touched on as well, really do come to the fore. It's quite critical, really. And I really support this work.

The GAC will be involved, of course, and represented on the review. And I think we will start to scale up our engagement on this area, having set out our general agenda, as you said, and the cost fee benefits and so on issues.

I just had a couple of questions which may be down to my sort of not reading things correctly.

My first question is on the issue of trust. You're focusing on TLD registry operators and how they fulfill their purposes and adhere to their processes and so on. I wonder why only -- why there is that focus. I mean, there are, obviously, other actors, registrars, resellers and so on involved in the interface with consumers.

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And so I -- my question is, I mean, are you solely looking at the registries or other actors in terms of the trust area?

And, secondly, I was interested to hear your references to question 18 in the application documentation. I mean, I think for most of us who have started to look at some of these applications in detail, we go straight to that, the mission, what is the purpose and so on. And where the applicant is stating that it's going to serve the interest of consumers, there will be choice, there will be new services and so on, we're starting to feel, well, that's quite a commitment. And it has -- you know, one would expect it to pertain throughout the life of the domain. But, whereas, you seem to be indicating that it's only just part of the application and so on. It doesn't actually amount to anything terms of contractual obligation and so on.

I wondered if you actually feel we should actually take more out of those statements in the various responses in all the responses to question 18. And, actually, that is, you know, a much longer and sustained sort of commitment by the applicant which should actually be taken into account when, eventually, if the application succeeds, as contracts drawn up and so on. So I just wondered if you might say a few words about that. Thank you very much.

CHAIR DRYDEN:

Thank you, UK. I have Egypt and Portugal. Would you like to respond now, Steve? And then we can continue on. Yes, Steve, please.

STEVE DeIBIANCO:

Thank you, Mark. And your first question was about whether consumer trust metrics would include other actors. Because you had the impression perhaps it was focused a little too much on registries which are the source for zone data, not necessarily for registrations. But our actual consumer trust document has a table of some two dozen metrics. Several of them do reference other contract parties to ICANN such as registrars. I'll give you an example. The survey that would be done would survey registrants' experience with the process of shopping for and selecting the right TLD to register in. They'll be asked about was it clear? When they visited a registrar site, was it clear what the terms of service are, what the proposed purpose of the TLD was?

Another would be the relative instance of breach notices that are issued to registrars and registries. Breach notices, in particular, for contract or policy compliance matters, and in the case of registrars with respect to what I hope will be the amended RAA. So those compliance matters are specifically measured. And our goal was that they be significantly lower than the relative instance and legacy TLDs. By the same token, UDRP and URS complaints, Mark, are mostly in reference to registrars, proxy and privacy services and others who sold the domain name to a registrant. So there are many metrics that touch registrars, but you're probably right that most cover registries, as the two contract parties over which ICANN has immediate contract authority.

Mark, your second question was about question 18 in the applications. And you're quite right that question 18 is an aspirational statement to differentiate one application from another. But its results are not binding since question 18 is there for non-community or standard applicants. It's a way they might differentiate. It's a way that public

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commenters like us in the business community or you in government might look at question 18's answer and use that to base your decision on whether to file a warning, whether to ask a question, whether to have competition authorities weigh in. And, if you did, you'd presumably get an answer from the applicant. And, if that answer involved the applicant changing something about how they'll run or making promises to run a certain way, then that would be an arrangement between the objector and between the applicant. But in no way does that become part of the contract with ICANN. Something we've raised before.

Now, should it be, you asked? The huge challenge here is that any promises that were relied upon for someone to get the application through, they ought to have a higher level of reliance than simple promises that were made to get a business model started. Because I do hope the TLDs will modify and evolve and improve their business models as market demand, conditions, innovation, and technology enables. So we wouldn't want to necessarily 3 to 5 years out hold every TLD to the specific answers they gave to question 18 today.

CHAIR DRYDEN:

Thank you, Steve. Jeff, you just wanted to add quickly before we move.

JEFF NEUMAN:

I just wanted to add, on that last point, that was Steve's personal opinion on it. I think you'd get a lot of people on the GNSO that would disagree with the notion of making this contractually binding in any kind of way. So I think Steve's about a higher expectation. I think he used

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the words even higher expectation. A lot of those questions, when you go back to it as an applicant, as one that supported many, there were a lot of tough questions in there that had you look very far into the future. And even your best intentions doesn't mean that you can't change somewhere down the line. So I just do want to caution that that was Steve's opinion and not the opinion of the GNSO as a whole.

CHAIR DRYDEN:

Thank you for that clarification. Okay.

So we have Egypt, Portugal, and then EU Commission. Please.

EGYPT:

Thank you, Heather. And thank you, Steve, for the presentation. Just a very quick remark regarding the metrics for the consumer. And the consumer here I would like to stress the importance of the end user itself. I mean, I didn't see much of the metrics that has to do with the end user. For example, how -- what's the end user expectations, how IDNs met or served the end users themselves? The threshold where too much choice might then be more confusing than helping. I mean, apart from the registrants, the registries and the registrars also the end users maybe we should be more proactive in knowing what the market needs. Thank you.

CHAIR DRYDEN:

Thank you, Egypt.

Steve, did you want to respond to that?

STEVE DeIBIANCO: It's a great suggestion. And you'll be relieved to know that of the 45 metrics, I think 20 something of them are with respect to the end user part of consumer, not necessarily the registrant. And two examples would be the measurements for choice indicate the quantity of TLDs using IDN scripts or languages other than English where we have percentages in there and the quantity of registrar Web sites because they're the ones who sell registrants the TLDs.

And you asked about confusion. There was a survey anticipated each year and a survey of end users asking them about their experiences with things that ICANN doesn't manage like search engines and whether they are more confused or more enlightened by the availability of 1400 new labels that weren't there before.

CHAIR DRYDEN: Thank you, Steve. Portugal, please.

PORTUGAL: Thank you very much. Actually, part of what I was going to ask has been answered in this dialogue between Egypt and Steve. But I'd like, actually, to stress this point of observing and measuring, end user perception of the -- so the effect that these new gTLDs have on the way they perceive the information. Now it is cemented. Because, certainly, this perception is very much related to culture, to language, to community practice. It's very difficult to measure, but it is very important to know the impact of gTLDs from this point of view. And it

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will have immediate implications for both consumer trust and consumer size. Thank you.

CHAIR DRYDEN: Thank you, Portugal.

EU Commission.

EUROPEAN COMMISSION: Thank you, Madam Chair. And many, many thanks to Mr. delBianco for this very informative presentation. I have one comment -- two comments and one question of fact.

One comment on the metrics. It is clear that the working group has devoted very significant effort in defining these metrics. One word of caution, if I may. Don't make the metrics more complex than they strictly have to be. Because the European Commission, as you may know, amongst its task is to collect metrics from the European market, et cetera. We do have some experience on the efforts that are involved in doing that. And I'm not sure how many resources will be devoted to the team, to the Affirmation of Commitments team. But this is just something to keep in mind. And, of course, I expect the GAC and other constituencies will possibly comment on this and other aspects.

I believe it is not strictly related to this presentation, but since it was mentioned, on the whole question 18, I listened carefully to your comment as well as to the correction by Mr. Neuman. You do have to realize, however, in respect to European Commission, what is written in the answer to question 18 is an important element of our reaction to



new gTLD. And we would not be -- to put it diplomatically, we will not be pleased to discover that a short time -- keeping into account what you said about business models, that is understood. But question 18 is not only about business models. It's also about protections and safeguards, et cetera. If an applicant commits to a particular safeguard and 12 months afterwards said I was missing and the safeguard disappears, again, we will not be pleased.

And the question of fact is, in the list of metrics that you have identified, there are different sources for those metrics. However, in that slide, which I asked Jeannie to put on the screen again, you indicate the staff will begin recording metrics in January 2013. And I would like a clarification. Staff. Is it ICANN staff? And does this mean that ICANN staff is supposed to handle all the collection of metrics even if the metrics -- the sources of which are in effect completely different third parties? And on which authority will ICANN staff collect those metrics. Thank you.

CHAIR DRYDEN: Steve?

STEVE DeIBIANCO: Thank you, Madam Chair. Great question. So, with respect to the make things no more complex than necessary, I would welcome a review. If you have EC experts that can look at the metrics in the document and find a way to make them simpler, that would be a welcome, welcome improvement. Might as well wait for the one we'll produce in the next 2 to 3 weeks, and we can work from there.

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With respect to -- your second question was about staff. That is ICANN staff up there. Because the impression we have is that the board did this resolution for the purpose of -- if you read the whereases, they're asking us to do the definitions in metrics so that they can begin measuring them well in advance of that review team. And it would be staff who would do so. And staff often rely on third parties like the vendor such as we did in the WHOIS review. They would also rely on industry data source. They might turn to Alexa to produce data on traffic, so that we could measure the traffic in the new TLDs versus traffic in the legacy TLDs. It would be staff that would be making the relationships with the third party vendors, gathering and compiling the data that's necessary to keep an eye on the program, maybe fine tune the program as it goes ahead, and then hand that over to a review team in 2014, 2015.

CHAIR DRYDEN:

Thank you for that. I think we have a few minutes left to handle one more agenda item. But I think this is certainly something that the GAC can pick up as a follow-up area of work to contribute to. I think it is indeed important from the perspective of governments.

So, before we conclude, let's move to the IOC Red Cross issue and the next steps to be taken after the board rejected recommendations coming from the council. And, if you could, maybe provide just a really brief background as to the state of play for the benefit of GAC members to give them a bit of context before we talk about what the issues are in front of us presently. Stephane.

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STEPHANE van GELDER: Thank you, Madam Chair. Jeff Neuman was the -- or is the person, sorry, still around -- who is chairing the drafting team that's worked on this for the GNSO. And so we've asked Jeff and he's kindly volunteered to provide the update that you've just requested.

JEFF NEUMAN: Thanks, Stephane. I guess, to go back to give a little bit of context, as you all recall, in September of last year -- actually, I should go back a little further than that.

In Singapore last year, June of last year, the board passed a resolution that, basically, put a moratorium on registration of the term "Olympic" and "Red Cross" at the top level and then, basically, set forth -- in motion, I should say, set in motion a process where it had requested that, if there are to be any other protections of these two particular types of marks, that that would need to go through the GNSO and the GAC. In September, the GAC had sent a letter to the GNSO chair with some recommendations of protections of the Olympic and Red Cross marks at the top and second level.

Immediately after the Dakar meeting in October, the GNSO formed a drafting team of which I'm currently the chair to look at these issues and to advise the GNSO Council on how to respond to the GAC proposal.

In Costa Rica or just shortly before Costa Rica, the drafting team had issued its recommendations to the GNSO Council. And we discussed that with the GAC as far as recommendations at the top level.

The GNSO Council voted on that motion after a short deferral at the end of March and voted to approve those recommendations at the top

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level. Sent that to the board. The board responded. It was two days before the application period was supposed to close the first time so around April 10th or 11th where the board had responded and declined to accept the recommendations of the GNSO basically saying that at this late point in time, even though the recommendations were well considered, that they were going to maintain the status quo for the protections at the top level. Since then we've, obviously, had the reveal happen. And thankfully, no one has applied for the Olympic or Red Cross marks at the top level. So, therefore, we don't have any issues to deal with for at least this current round. Shortly before the Costa Rica meeting after the drafting team delivered its representations at the top level, we began work in earnest on protections at the second level to analyze the GAC proposal and representations.

We are still in the process of doing that. But I'm happy to say that the drafting team has spent a considerable time considering the proposal, getting presentations from the International Olympic Committee there and Red Cross, Red Crescent, going back to those organizations with additional questions. There's been an impressive amount of back and forth between the drafting team and these organizations.

Right now we've asked each of the members of the drafting team to go back to their respective constituencies and stakeholder groups and advisory committees on the proposals that have been made to come to this meeting on Wednesday. We have a session with feedback from their groups. So we can incorporate those with the goal of getting our recommendations from the drafting team to the council prior to the meeting in Toronto.

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That's our goal. We've also had some other intervening events that I wanted to share. And we're still in the process of figuring out how everything relates to each other. But shortly -- I think it was during the Costa Rica meeting there was a letter that was submitted by the IGOs, intergovernmental organizations, to the -- to the board chair and to the CEO asking for additional protections for those groups both at the top and second level.

That letter was then submitted by the CEO and the ICANN board chair to the GNSO Council and I also believe to the GAC to ask for our advice on that letter.

While in April, early April, the GNSO chair sent a letter to the ICANN -- back to the ICANN board saying, specifically, that this may be an issue that we'd like to hear first from the GAC on since it deals with intergovernmental organizations. Since then we've had a motion at the GNSO Council that was approved to initiate an issue report on the protection of international organization names in new gTLDs.

That preliminary issue report has been provided to -- I know it's in your packet as well. It's out for public comment now. The public comment period ends this week. But there's a reply period shortly after that. That document goes into a number of different aspects that we hadn't previously considered on the protection of intergovernmental organization names as well as non-governmental organization names as well as international organizations and talks about, if the GNSO wants to start a PDP on this, these are particular avenues that we could take in order to look at those issues.

That is, as I said, it's in the preliminary issue report stage. They're looking for comments. Ultimately, in probably most likely in August time frame, that will be turned into a final issue report that will go before the council as to whether to start a formal policy development process on that issue. There is some overlap between the requests made by the Olympic Committee and the Red Cross on some of these issues that will take into consideration some of the findings of the drafting team. And also since then, there's been a third development, which is an ICANN paper, a staff paper on defensive registrations, which I'm not sure if you've seen. I don't know to the extent that that's been made -- I mean, it's public in the sense that I know it was sent to us by ICANN staff on the GNSO Council list, but I'm not sure how widely dispersed that was. Those also have some overlap issues on dealing with Red Cross Red Crescent and the Olympic Committee and also international organizations.

So one of our key tasks during this meeting that I hope to resolve is a clear path forward on each of the three of these and making sure that we respond to the GAC recommendations on the Olympic Committee, Red Cross, Red Crescent in a timely manner but also deal with the other issues that have come up in the intervening time frame. So that's kind of where we are. It's a lot of information. I know it's not as concrete as we'd like to have presented, but there's a lot of moving parts that are going on all at ones.

CHAIR DRYDEN:

Thank you very much, Jeff. We do appreciate getting that background and that reminder of the various moving parts as you call them. It is

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getting a bit complex as we try to draw together these linkages and understand them so that we're able to work well with the GNSO on these issues and be commenting and providing advice as appropriate. So we do have a lead in the GAC.

So we do have a lead in the GAC, or leads, on these topics. So perhaps it would be appropriate for the U.S., if you would be willing to give an update, and the U.K., you would add, I hope, as needed.

So U.S., please.

UNITED STATES OF AMERICA: Thank you, Madam Chair. And thank you, Jeff, for the overview. I have to say I am actually relieved to hear you say you are not quite sure how all of this hangs together, because we absolutely, I think I can -- we haven't even had the chance to discuss it but I think I'm pretty confident that we also have absolutely no idea as to how all of these different bits and pieces fit together and how we indeed to anticipate next steps, and where we might need to weigh in.

So I do appreciate that. I appreciate your intention or your hope to kind of resolve by the end of this week, so that that can be shared with us and we all have a better understanding of the way forward.

I will say that because that, as you pointed out, the issues report does address the IOC/Red Cross situation, it was a bit confusing as to the title said it was going to focus on IGOs, et cetera, et cetera, and yet we had some treatment in the document. So we were left not feeling very clear that we could report to our colleagues that we had a good understanding of what the paper was intended to do.

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So I guess maybe preliminarily we could leave it at that. However, I did want to sort of share, and this is where maybe Mark may be able to chime in as well, we are aware of some additional sort of developments, if you will, individually by the IOC and the Red Cross where they have taken some actions, and I think as soon as we can we would want to circulate that information to our GAC colleagues so that we have a sense of where things stand. And then those are two additional facts that we would need to take into account as we try to piece this tapestry together.

So I did just want to flag that and we can return to that ourselves just as an information point, there is documentation that can be shared.

But I guess one of the other questions, and what I'm going to say next is more as a heads up, sort of an FYI, to you all that to the extent that we are able to, in our exchanges with the Board, either through the Board/GAC Recommendation Implementation Working Group, which is, you know, the joint group that deals with those five ATRT recommendations pertaining to the role of the GAC, either there or through the normal Tuesday GAC/Board exchanges, there is a strong interest, because the original request came from the GAC, there is a strong interest in getting a better understanding from the Board of their rationale for rejecting the GNSO recommendation, which we were very, very gratified for and really, again, want to express my appreciation to the efforts of the draft being team to develop those recommendations which were quite good and went well beyond what the GAC had originally come up with.



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So you actually took our idea further and, quite candidly, there is another ATRT recommendation, number 7 I believe it is, that urges ICANN or directs ICANN, I don't know what the exact terminology is, to make public all the material on which the Board bases its decisions. And one of those elements surely must be an ICANN staff briefing paper.

So we do intend to ask for a copy of that.

Thank you.

HEATHER DRYDEN: Thank you, U.S. Jeff, please.

JEFF NEUMAN: Thanks.

I think that's a great point. I will say that we have been asking for not only that documentation but documentation behind why the Board originally passed the motion in Singapore and the rationale that it used to -- for the protections for the Olympic marks and the Red Cross marks in the first place. And one of the things, if you go, the Board does publish eventually, the Board publishes its briefing papers, but you will note that these pages, these very specific pages, it has the background on the issue. It's got what the Red Cross and Red Crescent and Olympic committees have asked for, and then it's got two big pages that are white that say "privileged and confidential."

So all of the analysis that the Board used in making its determination is not available.

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We have been asking for that information. We have not, to date, been successful in getting that information. It's now been a year since that's been done. I'm not sure why that was deemed to be privileged and confidential, but it's something that we would certainly love to get our hands on because it would have, "A," made our jobs a lot easier, and it would have shortcut some of the "why did the Board do what it did."

HEATHER DRYDEN:

Thank you, Jeff.

U.K., please.

UNITED KINGDOM:

Thanks, yes. Just very briefly to say that -- well, first of all, it is a bit confusing. There's a lot of intersecting things as we have already noted in this discussion. But I'm really appreciative, as a kind of co-lead on this, of the work of the drafting team and its commitment to this and the way it's engaged the IOC and the Red Cross/Red Crescent organization. And I'm greatly reassured that despite this sort of -- the other things happening that there is this commitment to finalize the recommendations with regard to the second level in time for the Toronto meeting. I think that's much appreciated.

There are always, in these situations, the risk that things will get distracted or diverted or merged or something, but I think the clarity of purpose here is readily cognizant to all of us. There is a set track for this and the work of the drafting team is following through in an admirable way. So I really appreciate that. And I will look forward to reading the report on the IGOs. To be honest, such has been demands on my time

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and I'm sure time of colleagues, I haven't actually had a chance to read through it except for the executive summary, but that looks like a very valuable contribution to the discussion about the IGOs case which we will consider later in this meeting.

Thank you.

HEATHER DRYDEN:

Thank you, U.K.

I think we can end on that note with a bit of lingering confusion about how that all comes together. But I would like to thank the GNSO for meeting with us today, providing the various materials, and for providing us with information and background to some of these issues. It's so helpful to the GAC in his work and to prepare for these sessions, and I recognize it's a fair bit of work for you to undertake to do this.

So, really, thank you for that. And we'll be talking with you throughout the week, I think, in the corridors. It's proving to be an interesting week in a number of respects.

So thank you, and we'll be talking to you.

All right.

For the GAC, we start at 9:00 a.m. tomorrow morning in this room.