



## Governmental Advisory Committee

Dublin, Ireland 21 October 2015

### **GAC Communiqué – Dublin, Ireland <sup>1</sup>**

#### **I. Introduction**

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Dublin, Ireland during the week of the 17<sup>th</sup> of October 2015. Sixty five (65) GAC Members attended the meeting and nine (9) Observers.

#### **II. Inter-Constituency Activities & Community Engagement**

##### **1. Meeting with the ICANN Board**

The GAC met with the ICANN Board and discussed a range of issues including:

Items for discussion:

- Board rationale for Stress Test 18 in CCWG Accountability
- Status of ATRT2 Recommendation 6.5

Information Items:

- ICANN Outreach to developing countries
- Root Zone Administrator and IANA Transition
- High Level Governmental Meeting, Marrakech
- gTLD Safeguards
- Visa issues for GAC Members attending meetings
- Dot Africa

##### **2. Meeting with the Generic Names Supporting Organization (GNSO)**

The GAC met with the GNSO and reviewed the work of the GAC-GNSO Consultation Group; current GNSO Policy Development Processes PDPs relevant to the GAC; GAC activities relevant to the GNSO; and the new ICANN meeting structure.

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<sup>1</sup> To access previous GAC advice, whether on the same or other topics, past GAC communiqués are available at: <https://gacweb.icann.org/display/gacweb/GAC+Recent+Meetings> and older GAC communiqués are available at: <https://gacweb.icann.org/display/gacweb/GAC+Meetings+Archive>.

It was agreed that procedural mechanisms are operating usefully, including the Consultation Group; the “Quick Look” mechanism for the issue scoping phase of PDPs; the GNSO liaison to the GAC; and the GNSO Council Review of the GAC Communiqué. It was noted that the GAC had provided inputs to a range of PDPs since the Buenos Aires meeting.

The GAC will continue to engage in particular with current PDPs on subsequent New gTLD rounds; and next generation registration directory services. The GAC will monitor and if necessary modify its working arrangements to ensure such engagement, for example to ensure that the expertise of GAC Working Groups can be best used. The GAC and the GNSO agreed to collaborate on possible capacity building initiatives to assist individual GAC members participating in PDPs; and to facilitate agreed GAC input, in particular at the public comment stage.

### **3. Meeting with the Country Code Names Supporting Organization (ccNSO)**

The GAC met with the ccNSO and agreed to continuing engagement with the Cross Community Working Group on Use of Country Territory Names as TLDs (CCWG-UCTN), in particular with regard to the possible use of 3-character country codes.

Views were exchanged on the CCWG-Accountability and its future implementation; and an update was provided on implementation of the Framework of Interpretation. The need for future transparency regarding the matters of ccTLD redelegation was mentioned.

### **4. Meeting with the At-Large Advisory Committee (ALAC)**

The GAC met with the ALAC and discussed the need for further examination of the experience to date with possible consumer safeguard issues in sensitive new gTLD strings. GAC Members expressed support for any work that will provide data to inform future gTLD rounds.

Views were exchanged with regard to the CCWG-Accountability and actions taken by ALAC in that regard; and the new ICANN meeting structure.

### **5. Universal Acceptance**

The GAC was briefed by members of the Universal Acceptance Steering Group on their work. GAC Members noted that ensuring all domain names are seamlessly inter-operable and treated equally in all situations is a public policy issue and members will engage with the work of the Steering Group as appropriate. GAC Members also noted the challenges in achieving full functionality for Email Address Internationalisation, an important aspect for the uptake of IDN top-level domains.

The GAC warmly thanks all SOs/ACs that met with the GAC, as well as those among the ICANN community who have contributed to dialogue with the GAC in Dublin.

### III. Internal Matters

#### 1. New Members

The GAC welcomes Antigua and Barbuda, Sierra Leone and Tokelau as new Members; and the Economic Community of Central African States and the Organisation of Eastern Caribbean States as new Observers. This now brings the number of GAC members to 155, and the number of observers to 34.

The GAC will continue to encourage governments who are not yet GAC Members to consider joining the GAC.

#### 2. Election of Vice Chairs

The following members were elected for 2016-17 by acclamation in accordance with the GAC Operating Principles:

Dr. Olga Cavalli (Argentina)  
Mr. Henri Kassen (Namibia)  
Ms. Gema Campillos (Spain)  
Mr. Wanawit Ahkuputra (Thailand)

The Vice Chairs will assume their positions for the new term from the end of the Marrakech meeting.

#### 3. GAC Working Groups

**FSQF** The GAC continues to pursue specific areas of work through its Working Groups, which cover the following areas:

##### Protection of Geographic Names in future rounds of new gTLDs

The GAC WG to Examine the Protection of Geographic Names in any Future Expansion of gTLDs met in an open session in Dublin, reported on progress in its work and discussed suggestions on how best to balance national and regional interests versus the range of different concerns expressed and questions raised by community members and GAC Members.

##### Public Safety

The GAC Public Safety Working Group (PSWG) had an open session that attracted over 80 participants. The open session discussed a range of issues with the ICANN community including the 2013 RAA WHOIS Accuracy Specification Review, Privacy Proxy Accreditation Issues, Next Generation WHOIS, WHOIS and European Data Protection Laws, Law Enforcement Agents Use Case Examples of WHOIS, Roadmap for PSWG In-Capital Coordination, New gTLD Security Framework specification 11, Child Exploitation and new gTLDs Sensitive Strings.

The PSWG agreed on its program of work that includes improving access to accurate IP Address WHOIS data, developing case studies, encouraging regulator collaboration to interact with registrars and registries, the new gTLD Security Framework, and importantly, significant

outreach efforts. The WG members and ICANN staff present at the meeting committed to working together intersessionally to significantly progress these items.

#### Underserved Regions

The GAC WG on Underserved Regions met in an open session and discussed a series of issues including the ongoing survey of governments' relations with ccTLDs, DNS industry studies, capacity building needs and recommendations for increased outreach and meaningful participation at the High Level Governmental Meeting (HLGM) at ICANN55 in Morocco. The WG noted that enhanced and targeted Capacity Building and Travel Support is required for Marrakech to ensure that High Level Officials from Underserved regions are fully briefed in advance of the meeting. The WG members and ICANN Staff present at the session committed to collaborating to significantly progress all work items inter-sessionally.

#### GAC Participation in the ICANN Nominating Committee (NomCom)

Draft terms of reference for the Working Group will be circulated to the GAC for comment and final approval during November.

#### Human Rights and International Law

The GAC Working Group on Human Rights and International Law (WG-HRIL) agreed to invite comments on its revised draft terms of reference by 18 November with the aim of finalising them in early December. For the purposes of information exchange, the Cross Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights (CCWP-HR) introduced its paper "ICANN's Corporate Responsibility to Respect Human Rights" with recommendations for developing a human rights review process and reporting. The WG-HRIL also received updates on the work of the CCWP-HR and the CCWG Accountability's proposal to include reference to human rights in the ICANN bylaws.

### **4. Review of GAC Advice Effectiveness**

The GAC reviewed a report from the independent ACIG GAC Secretariat providing a high level assessment of the effectiveness of recent GAC advice. The GAC will consider further action on the report's recommendations, including the option of referral to the Board-GAC Recommendation Implementation Working Group (BGRI WG).

### **5. GAC Secretariat**

The GAC recognised the valuable assistance and support provided by the independent ACIG GAC Secretariat and the need to continue to ensure that its services were made available to the GAC. Given the increasing demands on GAC Members, including work related to GAC Working Groups, the GAC noted the importance of ensuring that adequate funding was made available to ensure continuous support from the independent ACIG GAC secretariat.

## **IV. High Level Governmental Meeting (HLGM)**

The GAC representative for Morocco made a presentation on the preparatory process for the HLGM to be held during ICANN 55 on 7 March 2016. The GAC was briefed on the organisational

objectives of the meeting, in particular the invitation letters sent to Ministers of GAC member countries and non-GAC members as well as GAC Observers.

Regarding the draft agenda prepared by Morocco, the GAC has had the opportunity to give preliminary remarks on the document. GAC Members expressed their thanks and support for Morocco's efforts and the content of the document. The GAC will provide further views on the draft agenda as soon as possible to enable the host country to send new letters containing the agenda and other components relating to the meeting.

Pending receipt of further comments within two weeks, the final version of the agenda will be published.

## **V. Transition of US Stewardship of IANA and Enhancing ICANN Accountability**

### **1. IANA Stewardship Transition Coordination Group (ICG)**

The GAC took note of the activities being carried out by the ICG, and thanked the GAC Representatives in the ICG for their efforts.

### **2. Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability)**

The GAC recognizes that much progress has been made by the CCWG-Accountability in its ongoing work, and welcomes the CCWG's achievements to date and supports the efforts to finalise its proposal for enhancing ICANN accountability as required for the IANA stewardship transition.

In assessing the specific accountability recommendations put forth so far by the CCWG-Accountability, the GAC considers that whatever the final outcome of this process may be, the new accountability framework to be agreed upon must preserve the current role of governments in ICANN.

The discussions on Stress Test 18 have helped the GAC to have a better understanding of the different views on the issue. In assessing the different rationales presented so far related to Stress Test 18, the GAC considered:

- The need that each and every Advisory Committee ensures that the advice provided is clear and reflects the consensus view of the Committee;
- The need that each and every Advisory Committee should preserve its own autonomy in its definition of consensus;
- The value the Board attributes to receiving consensus advice;
- The recommendation of the BGRI WG, as reiterated by the ATRT2, to set the threshold for the ICANN Board to reject GAC advice to a 2/3 majority voting, consistent with the threshold established for rejection of ccNSO and GNSO PDP recommendations.

In view of the above, having considered concerns expressed by various parties, the GAC agreed to further work on the issue of Stress Test 18, and to submit any further input to the CCWG taking into account the timelines of the CCWG. GAC Members will continue to work within the CCWG to finalise the proposal for enhancing ICANN accountability.

## VI. Other GAC Discussions

### 1. Dot Africa

The GAC has reviewed the letter of 28 September 2015 from the Board Chair to the GAC Chair concerning the DotConnectAfrica Trust (DCA) v. ICANN Independent Review Process; and will be responding in writing in the near future.

### 2. Three-Character Country Codes as TLDs in Future Rounds

The GAC has received a request from the Cross Community Working Group on the Use of Country and Territory Names as Top Level Domains for GAC input on the issue of possible use of 3-character country codes as TLDs in future rounds. The GAC is considering its response to this request and will liaise with the Working Group inter-sessionally. Several GAC members have indicated possible areas of concern and these will be discussed further within GAC and with the Working Group.

## VII. GAC Advice to the ICANN Board<sup>2</sup>

### 1. gTLD Safeguards : Current Round

Consistent with its Buenos Aires Communiqué, the GAC is seeking a clear record of the ICANN Board's acceptance or rejection of GAC Safeguard Advice. This would optimally be provided in the form of a scorecard that includes a) what elements of GAC advice have been implemented; b) what remains a work in progress; and c) what has not been accepted for implementation, with a clear rationale for not being accepted.

The GAC reiterates its advice that the New gTLD Program Committee create a list of commended Public Interest Commitment (PIC) examples related to verification and validation of credentials for domains in highly regulated sectors to serve as a model of best practices for gTLD registry operators. Such a compendium would also permit an assessment of the success of the PIC specifications for strings representing highly regulated sectors, and will also facilitate the incorporation of such safeguards into contracts in future new gTLD rounds.

In light of the current and upcoming reviews of the New gTLD program,

#### a. The GAC advises and urges the Board to:

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<sup>2</sup> To track the history and progress of GAC Advice to the Board, please visit the GAC Advice Online Register available at: <https://gacweb.icann.org/display/GACADV/GAC+Register+of+Advice>

- i. develop and adopt a harmonized methodology for reporting to the ICANN community the levels and persistence of abusive conduct (e.g., malware, botnets, phishing, pharming, piracy, trademark and/or copyright infringement, counterfeiting, fraudulent or deceptive practices and other illegal conduct) that have occurred in the rollout of the new gTLD program.

The GAC was informed that independent studies presented during the ICANN 54 meeting on the review of the New gTLD round show a relatively low level of trust in these gTLDs by consumers compared to existing TLDs.

## **2. Future gTLD Rounds**

### **a. The GAC advises the Board that:**

- i. before defining the modalities for future rounds, a rigorous assessment of all public policy related aspects of the current round should be undertaken, taking into account the advice given by the GAC on this subject since the beginning of the New gTLD process, including advice relating to community-wide engagement on the issues of communication to and access by developing countries and regions; and advice regarding past policy decisions taken by the Board to reserve the Red Cross and Red Crescent designations and names.

In this regard, the GAC expects that those elements of the current framework for new gTLDs that are considered appropriate by the GAC will remain and that the elements that are not considered satisfactory will be improved for subsequent rounds.

## **3. Protection for IGOs**

### **a. The GAC advises the Board to:**

- i. facilitate the timely conclusion of discussions of the “small group” and the NGPC in an effort to resolve the issue of IGO protections.

## **4. Community Priority Evaluation**

### **a. The GAC advises the Board that:**

- i. the GAC reiterates previously expressed concerns that the Community Priority Evaluation (CPE) process has not met the expectations of applicants and notes that all the successful applications are currently the subject of dispute resolution procedures;
- ii. the GAC expects the current specific problems faced by individual applicants to be resolved without any unreasonable

delay, and in a manner in which justified community interests are best served;

- iii. the GAC notes possibly unforeseen consequences for community applicants of recourse by competing applicants to other accountability mechanisms; and the specific challenges faced by some community applicants in auctions when in competition with commercial applicants;
- iv. the GAC will take into account the final report of the ICANN Ombudsman on this issue when preparing the GAC's input into the GNSO's review of issues for improving procedures relating to community-based applications in the next gTLD round; and the Competition, Trust and Consumer Choice Review (CCT) under the Affirmation of Commitments.

### **5. Use of 2-letter Country Codes and Country Names at the Second Level**

The GAC notes that the process for considering comments for two-character letter/letter labels launched on the 6<sup>th</sup> October 2015 is not consistent with GAC advice which recommended that governments' comments be fully considered. That advice was accepted by Board resolution 2015.02.12.16.

GAC Members have now been asked to clarify which specific TLDs their comments pertain to, and to explain how the release of the two-letter label will cause confusion with their corresponding country code. The GAC reiterates its advice on this issue and

**a. advises the Board that:**

- i. comments submitted by the relevant Governments be fully considered regardless of the grounds for objection.

**b. The GAC further advises the Board to:**

- i. be mindful of governments' capacity limitations and asks the Board to facilitate simplification of the process for providing comments to address their concerns.

**c. With respect to new requests for release, the GAC advises the Board to:**

- i. task ICANN to work with the GAC Secretariat to address the technical issues with comment forms and in the interim
- ii. offer alternative means for comments.



## **6. Visas**

The GAC notes that a number of GAC Representatives had difficulties in obtaining visas for this meeting and some were unable to attend in person for this reason, thereby excluding some Representatives from the full range of GAC work. This has also been an issue at previous meetings. There are particular issues for government representatives in obtaining visas where a letter of invitation is from ICANN rather than an agency of the government of the country hosting the meeting.

### **a. The GAC advises the Board that:**

- i. it should investigate options for optimising visa approval procedures, including appropriate liaison in advance with the national government of the country hosting the meeting; and that the GAC is available to assist in this regard.

## **VII. Next Meeting**

The GAC will meet during the period of the 55<sup>th</sup> ICANN meeting in Marrakech, Kingdom of Morocco.