



## Governmental Advisory Committee

Los Angeles, 15 October 2014

### **GAC Communiqué – Los Angeles, CA, USA <sup>1</sup>**

#### **I. Introduction**

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Los Angeles, CA, USA during the week of the 11<sup>th</sup> of October. 63 GAC Members attended the meeting and 10 Observers.

#### **II. Inter-constituencies Activities**

##### **1. Meeting with Generic Names Supporting Organisation (GNSO)**

The GAC welcomed the appointment of Mr Mason Cole as GNSO liaison to the GAC as part of a pilot project initiated through the GAC-GNSO Consultation Group. The GAC received an update on the Group's work and the Group will proceed to agree mechanisms for the GAC's early engagement in GNSO policy development processes.

The GAC and the GNSO also exchanged views on the latest developments with regard to protection of Intergovernmental Organisation Names and Acronyms; and IANA Stewardship Transition processes.

##### **2. Meeting with Country Code Names Organisation (ccNSO)**

The GAC met with the ccNSO and was briefed on the recent report issued by the Framework of Interpretation Working Group. The implications of the report's recommendations for public policy will be considered by the GAC inter-sessionally. The GAC and the ccNSO also exchanged views on current developments with regard to ICANN accountability and governance.

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

The GAC met with the ALAC and exchanged views on a range of issues, including IANA Stewardship Transition, ICANN Accountability and outcomes from the ATLAS II At-Large

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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>.

Summit. The GAC and the ALAC exchanged views on their shared serious concerns about the implementation of public interest commitments for the highly regulated sector new gTLDs.

### III. Internal Matters

#### 1. Elections for Chair and Vice-Chairs

Mr Thomas Schneider of Switzerland was elected as the new Chair of the GAC. The GAC expressed its sincere appreciation to Ms Heather Dryden, the outgoing Chair, for her dedicated work in that position since 2010 and wishes her the best in future endeavours.

The GAC elected new Vice-Chairs as follows: Ms Olga Cavalli (Argentina); Mr Henri Kassen (Namibia); and Ms Gema Campillos Gonzalez (Spain).

#### Designation of Officers

Mr Wanawit Ahkuputra of Thailand and Mr Ihsan Durdu of Turkey were designated to perform the roles of Vice-Chair for the same period as the newly elected Vice-Chairs.

#### 2. New Members

The GAC welcomes Albania, Dominican Republic, The Gambia, Niger and St Lucia as new Members.

#### 3. Working Group on Government and Intergovernmental Organisation Engagement

The Working Group held a joint briefing session for the GAC in conjunction with staff from ICANN's Global Stakeholder Engagement team. Several areas of further cooperation and coordination were identified to enable ICANN's regional representatives and GAC members to inform and assist each other, and for enhanced information exchange at senior levels.

#### 4. GAC Secretariat

The existing contract to secure GAC secretariat services from the Australian Continuous Improvement Group (ACIG) concludes on 7 November 2014. The GAC noted with concern that the long-term contract is yet to be finalised, and urges the ICANN Board to ensure this matter is promptly concluded.

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

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

### 1. Transition of US Stewardship of IANA and Strengthening ICANN Accountability

The GAC met with members of the IANA Stewardship Transition Coordination Group (ICG) and was briefed on the transition proposal process in relation to names, numbers and protocol parameters.

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

- i. The GAC and its Members will be working actively through the Cross Community Working Groups established on:
  - a. Development of an IANA stewardship transition proposal on naming related functions; and
  - b. ICANN accountability and governance. GAC notes that key operational details for the ICANN accountability and governance work stream are still being developed in the community.
- ii. The IANA transition process should be guided by consensus based decisions and serve the public interest with clearly implementable, transparent and verifiable accountability mechanisms that satisfy requirements of all affected stakeholders.
- iii. The concept of public interest should be seen as encompassing the larger interest of the different communities affected by Internet Governance processes and not be limited to the interests and objectives of any group or set of stakeholders.
- iv. It is crucial to make sure accountability processes are guided by the necessary public policy considerations in addition to a technical perspective. It is crucial to make sure these processes are structured in a way that all stakeholders are involved – including governments – in order to ensure that the final outcome of the exercise is also considered legitimate by all participants.

### 2. Safeguard Advice Applicable to all new gTLDs and Category 1 (consumer protection, sensitive strings and regulated markets) and Category 2 (restricted registration policies) strings

The GAC remains concerned that the NGPC has not adopted certain specific GAC proposals on safeguards applicable to new gTLDs set forth in the London Communiqué. In its September 2, 2014 response to the GAC's advice and questions regarding implementation of the safeguards,

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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>

the NGPC appeared to accept GAC advice and respond to the GAC's questions. In substance, however, the NGPC's response clearly indicates the NGPC believes certain elements of the GAC's advice would be challenging to implement. Moreover, the NGPC has deferred a concrete response on many key aspects of the implementation of the GAC advice.

The GAC raised vital consumer protection issues in the Beijing, Singapore, and, most recently, London Communiqués, which help establish an environment of trust for these new domains as they are delegated. It is urgent to address these issues now because contracts for many new gTLDs have already been signed.

Accordingly,

**a. The GAC strongly advises the ICANN Board to focus its attention on the following:**

i. Implementation of WHOIS Related-Safeguards

1. Provide the GAC with a comprehensive scorecard indicating steps and timelines regarding all streams of work related to the WHOIS accuracy safeguard;
2. Complete the Pilot study on WHOIS accuracy, including assessment of identity validation, and share the findings in a timely manner for review at the ICANN 52 meeting;
3. Initiate steps towards Phase 3 (identity verification) of WHOIS, including undertaking a cost-benefit analysis of implementation options; and
4. Commit to defining the process to address and resolve inaccurate WHOIS records and respond to non-compliance reports.

ii. Security Risks

1. Inform the GAC and provide GAC members an opportunity to contribute inter-sessionally about the ongoing consultation on the framework for Registries to respond to security risks;
2. Inform the GAC of the findings of this consultation no later than three weeks before the ICANN 52 meeting; and
3. Ensure an interim mechanism is in place to effectively respond to security risks.

- iii. Public Interest Commitment Dispute Resolution Process
  - 1. Modify the dispute resolution process to ensure that non-compliance is effectively and promptly addressed, in particular for cases requiring urgent action.
- iv. Verification and Validation of Credentials for Category 1 Strings Associated with Market Sectors with Clear and/or Regulated Entry Requirements
  - 1. Reconsider the NGPC's determination not to require the verification and validation of credentials of registrants for the highly regulated Category 1 new gTLDs. The GAC believes that for the limited number of strings in highly regulated market sectors, the potential burdens are justified by the benefits to consumers; reconsider the requirement to consult with relevant authorities in case of doubt about the authenticity of credentials; and reconsider the requirement to conduct periodic post-registration checks to ensure that Registrants continue to possess valid credentials; and
  - 2. Ensure the issues (verification/ validation; post-registration checks; consultation with authorities) are addressed in the review process for any subsequent rounds of new gTLDs.
- v. Category 2 Safeguards: Ensuring Non-Discriminatory Registration Policies
  - 1. Amend the PIC specification requirement for Category 2 new gTLDs to include a non-discriminatory requirement to provide registrants an avenue to seek redress for discriminatory policies.

### **3. Reviews of First Round of New gTLDs and Preparation for Subsequent Rounds**

The GAC was briefed by ICANN staff on the recently released *New gTLD Program Reviews and Assessments Draft Work Plan*, and discussed the issues with the ICANN Board:

- a. **The GAC advises the ICANN Board that:**
  - i. The review processes should be conducted and finalised before policy for the further gTLD rounds is developed and should include community-wide engagement on the issues of

communication to and access by developing countries and regions, and all aspects of the framework for community-based gTLDs.

- ii. Appropriate and realistic timeframes should be applied to the review processes to ensure that all lessons of the most recent round are captured, and to avoid further stressing the capacity of both ICANN and the community to do the necessary work.

#### **4. Community Priority Evaluation Process**

The GAC has concerns about the consistency of the Community Priority Evaluation Process, following the rejection of a number of applications. There is a need to ensure that criteria for community priority treatment are applied consistently across the various applications.

##### **a. The GAC requests the ICANN Board:**

- i. To look into this matter and urges the Board to examine the feasibility of implementing an appeal mechanism in the current round in case an applicant contests the decision of a community priority evaluation panel

#### **5. Protection of Inter-Governmental Organisation (IGO) Names and Acronyms**

- a. The GAC reaffirms its advice from the Toronto, Beijing, Durban, Buenos Aires, Singapore and London Communiqués regarding protection of IGO names and acronyms at the top and second levels, as implementation of such protection is in the public interest given that IGOs, as created by governments under international law, are objectively different right holders; namely,
  - i. Concerning preventative protection at the second level, the GAC reminds the ICANN Board that notice of a match to an IGO name or acronym to prospective registrants, as well as to the concerned IGO, should apply in perpetuity for the concerned name and acronym in two languages, and at no cost to IGOs;
  - ii. Concerning curative protection at the second level, and noting the ongoing GNSO PDP on access to curative Rights Protection Mechanisms, the GAC reminds the ICANN Board that any such mechanism should be at no or nominal cost to IGOs; and further, in implementing any such curative mechanism,

##### **b. The GAC advises the ICANN Board:**

- i. That the UDRP should not be amended; welcomes the NGPC's continued assurance that interim protections remain in place pending the resolution of discussions concerning preventative protection of IGO names and acronyms; and supports continued dialogue between the GAC (including IGOs), the ICANN Board (NGPC) and the GNSO to develop concrete solutions to implement long-standing GAC advice.

## **6. Protection of Red Cross/Red Crescent Names**

The GAC welcomes the decision of the New gTLD Program Committee (Resolution 2014.10.12.NG05) to provide temporary protections for the names of the International Committee of the Red Cross and International Federation of Red Cross and Red Crescent Societies, and the 189 National Red Cross and Red Crescent Societies. The GAC requests the ICANN Board and all relevant parties to work quickly to resolve the longer term issues still outstanding.

## **7. WHOIS**

The GAC notes that there are a wide range of WHOIS-related issues that have significant workload implications for both the GAC and the wider community. This includes:

- Accuracy: Findings and Methodology from the Pilot Accuracy Report.
- Conflicts with National Privacy Laws.
- Privacy/Proxy Accreditation issues.
- Implementation of Thick WHOIS.
- GNSO PDP Working Group on Translation and Transliteration of Contact Information
- Implementation of 2013 RAA requirements and the new gTLD Program.
- Next steps for gTLD Directory Services Expert Working Group Report.

The GAC requests a Road Map that identifies linkages and timelines between and among the above issues, in order to enable the GAC to collaborate with other parties to prioritize such work and rationalize timelines and deadlines.

## **8. Release of 2-Character Names at the Second Level**

The GAC notes that new gTLD registry operators have submitted RSEP (Registry Service Evaluation Process) requests to ICANN in order to use two-character labels at the second level of their TLD.

The GAC recognized that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC is not in a position to offer consensus advice on the use of two-character

second level domains names in new gTLD registry operations, including those combinations of letters that are also on the ISO 3166-1 alpha 2 list.

In considering these RSEP requests, and consistent with the Applicant Guidebook, the GAC considers that the public comment period is an important transparency mechanism, and in addition asks that relevant governments be alerted by ICANN about these requests as they arise.

The GAC will review the use of country and territory names at the second level and advise the ICANN Board in due course.

## **9. Human Rights, International Law and ICANN**

The GAC continued its discussions from the London meeting concerning possible application of human rights and international law to ICANN activities.

The GAC will work inter-sessionally to assess a range of issues including legal considerations and the possible role of human rights considerations.

## **10. Accountability and Transparency**

The GAC was briefed by the Board-GAC Recommendation Implementation Working Group (BGRI-WG) and agreed to specific ATRT2 Recommendations being progressed as follows:

- a. Development of a formal process for the Board to notify and request GAC advice (Recommendation 6.4) – Continue to seek comments on current processes and options for improvement,
- b. Bylaw changes to formally implement the documented process for Board-GAC Bylaws consultation developed by the BGRI-WG (Recommendation 6.5) – In its meeting with the ICANN Board, the GAC was advised that this will not proceed in its current form and will be subject to further consideration.
- c. The GAC to convene a High Level Meeting on a regular basis (Recommendation 6.7) – Continue to seek comments on guidelines for GAC High Level Governmental Meetings

The GAC also discussed the role of the GAC in the Nominating Committee in light of recommendations made by the recent report of the Board Working Group on Nominating Committee (NomCom). The GAC will continue consideration of this issue inter-sessionally with the aim of providing advice at the ICANN 52 meeting.



### **11. Protection of Geographic Names in gTLDs**

The GAC again convened a community session, led by the sub-group on geographic names of the working group on future gTLD issues, on protection of geographic names in future new gTLD application rounds. Community input is being sought, via the GAC website, until 31 October 2014. The GAC looks forward to working with the community on ways to coordinate efforts on this issue, including a community session to be held during the ICANN 52 meeting.

### **12. GAC Open Forum**

The GAC convened an open session for the community to inform about and exchange views on the GAC and its working methods, in accordance with Recommendation 6.1.a of the ATRT2 Report. Similar sessions were held at the London meeting and at the Internet Governance Forum in Istanbul.

## **V. Next Meeting**

The GAC will meet during the period of the 52<sup>nd</sup> ICANN meeting in Marrakech, Morocco.