

ICANN | GAC

Governmental Advisory Committee

ICANN69 Virtual Annual General Meeting, 23 October 2020

GAC Communiqué – ICANN69 Virtual Annual General Meeting¹

The GAC ICANN69 Communiqué was drafted and agreed remotely during the ICANN69 Virtual Annual General Meeting. The Communiqué was circulated to the GAC immediately after the meeting to provide an opportunity for all GAC Members and Observers to consider it before publication, bearing in mind the special circumstances of a virtual meeting. No objections were raised during the agreed timeframe before publication.

I. Introduction

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met via remote participation, from 19 to 22 October 2020. Per ICANN Board resolutions² on 11 June 2020, in response to the public health emergency of international concern posed by the global outbreak of COVID-19, ICANN69 was transitioned from an in-person meeting in Hamburg, Germany, to a remote participation-only ICANN meeting.

Sixty six (66) GAC Members and five (5) Observers attended the meeting.

The GAC meeting was conducted as part of the ICANN69 Virtual Annual General Meeting. All GAC plenary and working group sessions were conducted as open meetings.

¹ To access previous GAC Advice, whether on the same or other topics, past GAC communiqués are available at: <https://gac.icann.org/>

² See Resolutions 2020.06.11.01 - 2020.06.11.03 at <https://www.icann.org/resources/board-material/resolutions-2020-06-11-en>

II. Inter-Constituency Activities and Community Engagement

Meeting with the ICANN Board

The GAC met with the ICANN Board and discussed:

- Subsequent Rounds of New gTLDs, including Public Interest Commitments (PICs) in New gTLD Contracts and Follow-Up on GAC Montreal CCT Review Advice;
- Domain Name Registration Data/WHOIS Matters, particularly related to the GNSO EPDP Phase 2 effort and follow-up;
- ATRT3 Final Report Recommendation Applicable to the GAC; and
- An ICANN org proposal for a new Operational Design Phase relating to the implementation of approved gTLD policies.

The GAC and the Board also discussed aspects of the ongoing effort to enhance the effectiveness of the ICANN Multistakeholder Model – a topic suggested by the Board.

ICANN Board responses to the GAC's questions and statements are available in the transcript of the GAC/ICANN Board meeting, appended to this document.

Meeting with the At-Large Advisory Committee (ALAC)

The GAC met with members of the ALAC and discussed:

- EPDP Phase 2
- New gTLD Subsequent Procedures
- Educating end-users about DNS Abuse

Cross Community Discussions

GAC Members participated in relevant cross-community sessions scheduled as part of ICANN69, including on the Consideration of the Issues of DNS Abuse, and the impact to End-Users and Public Safety of WHOIS Changes Under GDPR.

III. Internal Matters

1. GAC Membership

There are currently 178 GAC Member States and Territories and 38 Observer Organizations.

2. GAC Elections

The GAC elected Manal Ismail (Egypt) as Chair for the term starting after ICANN70 (March 2021) and ending at the close of ICANN76 (March 2023).

The GAC elected as GAC Vice-Chairs for the term starting after ICANN70 (March 2021) and ending at the close of ICANN73 (March 2022):

- Rodrigue Guiguemde (Burkina Faso)
- Pua Hunter (Cook Islands)
- Pär Brumark (Niue)
- Jorge Cancio (Switzerland)

3. GAC Leadership

The GAC thanks Ms. Olga Cavalli (Argentina) for her service to the GAC as Vice-Chair and Chair of both the GAC Working Group to Examine the GAC's Participation in NomCom and the GAC Working Group to Examine the Protection of Geographic Names in Any Future Expansion of gTLDs, and wishes her well for the future in her new position as an appointee to the GNSO Council.

4. GAC Working Groups

The GAC notes and welcomes the appointment of Chris Lewis Evans, from the United Kingdom's National Crime Agency as a co-Chair of the PSWG.

- **GAC Public Safety Working Group (PSWG)**

The GAC PSWG led two sessions to update the GAC on PSWG activities and on WHOIS/Registration Data Services (RDS) and Data Protection. The PSWG's recent activities include continued advocacy on the need for the community to work together to prevent, deter, and mitigate DNS Abuse. This work focuses on roles that different stakeholder groups may play in this effort including consumer and business education, and proactive measures to prevent abuse.

The PSWG noted its outreach to ICANN Org and stakeholders, to assess how contract provisions may be improved to combat DNS Abuse.

The PSWG continued its active participation to support the GAC Small Group for the EPDP Phase 2 Recommendations on gTLD Registration Data. The EPDP team published its Final Report in July and the PSWG helped draft a GAC Minority Statement that reflected the GAC's public policy concerns with certain outcomes. The PSWG highlighted the remaining work on the treatment of data from legal entities and data accuracy and its intent to support the GAC in these policy efforts. Members of the PSWG also supported the GAC in the Implementation Review Team for Phase 1 of the EPDP.

During ICANN69, the PSWG participated in two cross-community sessions on DNS Abuse and on RDS Changes and its Impact on End Users and Public Safety. In the DNS Abuse discussion, the PSWG noted the increasing levels of harm to the public. The PSWG recognized that certain parties in the ICANN Community have taken positive steps to tackle DNS abuse but highlighted that bad actors enabling such abuse often fall outside the ICANN Community. Thus, tackling DNS Abuse requires better collaboration across the entire ecosystem. The PSWG looks forward to the SSAC working paper on DNS abuse to help guide some concrete steps going forward.

In the session discussing the impact of changes to the availability of Registration Data, PSWG representatives discussed the ways that the public 1) relies on available Registration Data to protect themselves from malicious behavior and 2) noted the lack of available registration data in its consumer complaints. The PSWG also highlighted the impact that lack of timely access to registrant data can have on law enforcement work, the downstream delays on investigative timelines, and the resulting difficulty that law enforcement faces in alerting victims to malicious conduct.

Finally, the PSWG held discussions with ICANN's OCTO and SSR teams, the Security and Stability Advisory Committee, the At-Large Advisory Committee, Registry and Registrar Stakeholder Groups, and the Intellectual Property, Business and Internet Service Providers Constituencies of the GNSO.

5. GAC Operational Matters

- **Work Stream 2 - Accountability, GAC Plans to Implement Recommendations**

The GAC's session explored options for implementation of the Work Stream 2 - Accountability recommendations applicable to the committee. Co-Chairs of the Human Rights and International Law Working Group (HRIL WG) and GAC Support staff shared information on the progress toward completing an inventory tool that will enable GAC members to confirm and assess over 40 specific recommendations, assign accountability for establishing plans to develop recommendations for GAC review, and track the status of the implementation efforts. The HRIL WG co-chairs explained that the WG plans to proceed with a preliminary specific focus on the GAC's implementation of the new ICANN Human Rights Core Value along with the consideration of WS-2 diversity recommendations.

- **GAC Travel Support Rules**

The Underserved Regions Working Group (USRWG) was tasked by the GAC to review and update the 2017 GAC Travel Support Rules (TSRs), as USRWG Members are considered to be the primary beneficiaries of travel support to ICANN meetings. The USRWG reviewed the TSRs ensuring that they were consistent with the new ICANN Travel Guidelines, taking into account feedback received from GAC members. The new 2020 GAC Travel Support Rules are now proposed for endorsement by the GAC.

IV. Issues of Importance to the GAC

1. Subsequent Rounds of New gTLDs

The GAC discussed Subsequent Rounds of new gTLDs, following the publication of the Subsequent Round for New gTLDs PDP WG (SubPro PDP WG) Draft Final Report. The GAC engaged in discussions with the Subpro PDP WG Co-Chairs on recent developments in the PDP WG, their initial reactions on the GAC consensus comment filed on 29 September 2020, and letters submitted by the ICANN Board and ICANN Org to the PDP WG. The GAC thanked the SubPro PDP WG Co-Chairs for their engagement and cooperation with the GAC throughout the course of the finalization of the draft final report, and recognized the tremendous efforts of all the ICANN Community members participating in the SubPro PDP WG. The GAC noted general alignment between various ICANN Board comments to the PDP WG and GAC consensus input to the PDP WG Draft Final Report on topics such as predictability, closed generics, community applications, applicant support and auctions of last resort. Some GAC members highlighted specific items of importance to the SubPro PDP WG Co-Chairs, including a discussion on the SPIRT framework, and recalled their view that the “strong presumption” language regarding GAC Consensus Advice should be retained in the Applicant Guidebook. The GAC recalled the importance of addressing DNS Abuse Mitigation measures.

The SubPro PDP Co-Chairs reviewed the updated Work Plan confirming that the PDP WG is expected to deliver the Final Report to the GNSO Council by the end of December 2020, with the assumption that the policy recommendations could be delivered to the ICANN Board in Q1 of 2021. The PDP WG is presently in an initial stage of the review process for the 50+ comments received during the public comment period. GAC Topic Leads invited GAC Members and Observers to join in the GAC efforts regarding Subsequent Rounds of new gTLDs in the coming months, and identified the various opportunities of potential GAC input in the forthcoming months, spanning from input to the PDP WG, to the GNSO Council or to the Board as soon as the policy recommendations are submitted to it.

2. DNS Abuse

The GAC has taken note of the GNSO Subsequent Procedures PDP Working Group determination that DNS Abuse issues should be addressed in a holistic manner, such that any proposed approach/methodology for addressing DNS abuse would be applicable to both existing and new gTLDs.

The GAC has also taken note of the recently posted rationale for the ICANN Board decision to extend the contract for the ICANN CEO, which explicitly cites ongoing work in the Community on DNS abuse that could lead to policy recommendations. The GAC appreciates the ICANN Board's recognition of the importance of further work on this issue.

From the GAC's perspective, the momentum has been increasingly building for concrete action as the Community has progressively engaged in constructive dialogue to advance work on a shared goal, the mitigation of DNS abuse. Beginning with the recommendations from the CCT-RT and the SSR2 RT and continuing through several cross-community sessions and more recent work on a DNS Abuse Framework, the GAC believes there is now a solid expression of broad support for concrete steps to be taken to address the core components of effective DNS abuse mitigation. The GAC stands ready to work with the ICANN Board and the Community to advance this shared goal, including through proposals to improve policies and/or improve contract provisions and enforcement, in relation to curbing DNS Abuse.

3. Access to gTLD Registration Data

In line with its previous advice, the GAC has emphasized the need to maintain WHOIS access to the fullest extent possible under the law.

Specifically, the GAC reiterates its previous advice, including from the San Juan Communiqué, that the data of legal and natural persons should be distinguished from one another, and that public access to WHOIS data of legal entities should be restored. Legal person data is not protected by the GDPR and its disclosure does not violate individual privacy. Therefore, legal person data should not be redacted from the SSAD or any service that provides access to gTLD registration data.

In addition, the GAC reiterates that registration data should be accurate. As the GAC noted in its Minority Statement to the Phase 2 EPDP registration data recommendations, “[t]he accuracy of domain name registration data is fundamental to both the GDPR and the goal of maintaining a secure and resilient DNS. The GDPR, as well as other data protection regimes and ICANN's Registrar Accreditation Agreement, require data accuracy and such accuracy is critical to ICANN's mandate of ensuring the security, stability, reliability, and resiliency of the DNS. [...] Consistent with [Article 5 of] the GDPR it is essential that data accuracy and quality is ensured to the purposes for which they [the data] are processed.”

Finally, the GAC reiterates its statement from the Abu Dhabi Communiqué that any successor to the WHOIS service must meet the needs of “businesses, other organizations, and users in combating

fraud, complying with relevant laws, and safeguarding the interests of the public[.]”. Therefore, the GAC welcomes the further analysis of the financial sustainability of the proposed SSAD. Specifically, the GAC notes that the costs related to the SSAD should be reasonable and appropriate for all stakeholders, and should not discourage or limit use of the SSAD.

V. Next Meeting

The GAC is scheduled to meet next during the ICANN70 Community Forum.