



Governmental Advisory Committee

COMMUNIQUE

Shanghai, China – October 2002.

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met on 27, 28 and 29 October 2002, in Shanghai, China. The attending GAC Members, which included representatives from 32 national governments, distinct economies as recognized in international fora, and multinational governmental and treaty organisations had useful discussions concerning ICANN and related DNS issues.

The GAC continues to focus on ICANN Reform and the Reports of the Evolution and Reform Committee (ERC), including the suggested amendments to the ICANN By-Laws. Members addressed issues of relevance to the implementation of IPv6, recent deliberations of WIPO and the IETF, ccTLD management issues, GAC reform and forward going work program and resolved to hold elections for GAC Office Holders.

ICANN Reform

Noting its statement of concern in Bucharest around the timeliness of the ERC consultation process, the GAC welcomed the commitment of the Chair of the ERC to continue dialogue on implementation of ICANN Reform, and encourages the ERC to afford adequate opportunities in the future for the GAC to comment. Affirming the decisions of the Bucharest meeting, the GAC continues to maintain a strong interest in the deliberations of the ERC.

The GAC discussed the ERC's proposed new Bylaws and agreed on certain recommendations for further amendment. These recommended amendments are attached and the GAC requests the ERC and the Board to duly take these recommendations into account. The GAC will consider any further Bylaws texts to be supplied by the ERC (notably Article IX [ccNSO]), and comment if necessary.

As the GAC has previously noted, the Internet is a global resource, which supports world-wide economic and social interaction. The GAC notes that the issues arising from the co-ordination, at the overall level, of the technical aspects of the global Internet's systems of unique identifiers are entrusted to one entity whose activities should appropriately reflect the global interdependency of the resource.

Consistent with this approach, the GAC calls on all parties concerned, including in particular ICANN, but also the RIRs and the ccTLD constituency, to co-operate in good faith in order to ensure a relationship conducive to efficiency and mutual confidence.

Dialogue with ccTLD Constituency

The GAC and the ccTLD Constituency continued dialogue on ICANN Reform. The GAC noted comments that the simplification of contractual positions and processes might facilitate improvement in interactions between ICANN and the ccTLD Constituency.

Recognizing that Internet stability depends on accuracy of the IANA database, the GAC urges ICANN to ensure that the IANA function performs updates in a more timely and efficient manner to ensure accuracy.

Nominating Committee

While the GAC members maintain their positions as expressed during the Bucharest meeting, the GAC prefers that its representative on the Nominating Committee be a non-voting liaison.

IPv6

The GAC welcomes ICANN providing the workshop on IPv6 for the first time, particularly in view of strong interest in this topic. The GAC

strongly supports the efforts of ICANN and related groups in the smooth and safe deployment of IPv6. The GAC further encourages ICANN to continue to update information on the operational status of IPv6 with the community.

WIPO

A presentation was made of the Decision taken by the WIPO Members at their meeting from 23 September to 7 October 2002 on the issues addressed in the Second WIPO Internet Domain Names Process.

The GAC agreed that this issue would be put on the GAC work program for consideration at its upcoming meetings.

IETF

The GAC received a presentation from Harald Alvestrand, the Chair of the IETF, on ICANN and the IETF. The GAC members expressed their appreciation for this presentation and encouraged further dialogue with the IETF in the future as appropriate.

GAC Internal Organization and Workplan

The GAC discussed priority areas for future work for the 2002 – 2003 period. The members agreed to hold elections for Office Bearers beginning 1 November 2002. The GAC expects to have a new team of Chair and Vice Chairs in place by mid-January 2003.

The GAC agreed to accept the offer from the European Commission to provide the interim Secretariat that will be supported by other members. The transition between Australia and the European Commission should be essentially completed by 30 November 2002.

The GAC expresses its appreciation and thanks for Australia's support since 1999 for the GAC Chair and Secretariat.

Considering the diversity of the GAC, in the sense that it represents a collection of different countries, distinct economies and international organizations that respond to varying domestic and international issues and also taking into account that GAC members hail from countries or distinct economies with very different levels of Internet penetration and

DNS awareness, members agreed to continue with outreach strategies and encourage issues that would be considered as educational and information sharing. This will ensure that the GAC's work reflects the interests of all members and will introduce mechanisms through which the various local Internet communities benefit from having governmental or public administration representatives at the GAC.

Internationalised Domain Names

The GAC welcomes the update provided by Masanobu Katoh, the Chair of the ICANN IDN Committee and James Seng, co-Chair of the IETF IDN Working Group, on matters relating to Internationalised Domain Names. The GAC also notes that the IETF IDN Committee had made various recommendations as to the standards for use for IDNs. The GAC would like to recall its advice to ICANN in its previous communiqués to exercise great care in the introduction of IDNs and to consult all parties affected by the introduction of IDNs.

.info and Country Names

The GAC continues to monitor and facilitate the registration of .INFO country names, as per the Board decision of the Montevideo meeting of ICANN.

The GAC warmly thanks the Internet Society of China and the sponsors for hosting its meeting.

The next face-to-face meeting of the GAC will be held in March 2003 in Rio de Janeiro, Brazil to coincide with ICANN's next round of meetings.

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**ATTACHMENT A: GAC Amendments to Committee on ICANN
Evolution and Reform's "Proposed New Bylaws"**

Additions proposed by the GAC are presented in **BOLD** font.
Deletions proposed by the GAC are ~~struckthrough~~.

Only portions of the original document directly commented upon by the GAC have been included in this response.

ARTICLE I: MISSION AND CORE VALUES

Section 1. MISSION

3. Coordinates policy development as necessary to perform these technical functions.

ARTICLE III: TRANSPARENCY

Section 6. NOTICE AND COMMENT ON POLICY ACTIONS

1. With respect to any policies that are being considered by the Board for adoption that substantially affect the operation of the Internet or third parties, including the imposition of any fees or charges, ICANN shall:

- a. provide public notice on the Website explaining what policies are being considered for adoption and why, at least **one month** (and if practical, earlier) prior to any action by the Board; and
- b. provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments, prior to any action by the Board.
- c. in those cases where the policy action affects public policy concerns, to request the opinion of the GAC and to take duly into account advice presented at the Board's request or at GAC's own initiative.**

ARTICLE IV: ACCOUNTABILITY AND REVIEW

Section 4. PERIODIC REVIEW OF ICANN STRUCTURE AND OPERATIONS

The Board shall cause a periodic review, if feasible no less frequently than every three years, of the performance and operation of the Nominating Committee and of each Supporting Organization, Supporting Organization Council, Advisory Bodies, **other than the GAC**, by an entity or entities independent of the organization under review. The goal of the review, to be undertaken pursuant to such criteria and standards as the Board shall direct, shall be to determine (i) whether that organization has a continuing purpose in the ICANN structure, and (ii) if so, whether any change in structure or operations is desirable to improve its effectiveness. The results of such reviews shall be posted on the Website for public review and comment, and shall be considered by the Board no later than the second scheduled meeting of the Board after such results have been posted for 30 days. The first such reviews, to be initiated within one year following the adoption of these Bylaws, shall be of the GNSO Names Council, the Technical Advisory Committee, and the ICANN Root Server System Advisory Committee.

The GAC shall provide its own review mechanisms.

ARTICLE VI: BOARD OF DIRECTORS

Section 9. NON-VOTING LIAISONS

1. The non-voting liaisons shall include:

a. One appointed by the **GAC** ~~established by Article XI of these Bylaws~~;

4. The non-voting liaisons shall be entitled to attend Board meetings, participate in Board discussions and deliberations, and have access to materials provided to Directors for use in Board discussions, deliberations and meetings, but shall otherwise not have any of the rights and privileges of Directors. **Nevertheless, the non-voting liaisons shall be entitled to use those materials in deliberations in their respective committee or organisation.**

Section 11. REMOVAL OF A DIRECTOR OR NON-VOTING LIAISON

1. Any Director may be removed, following notice to that Director and, if selected by a Supporting Organization, to that Supporting Organization, by a three-fourths (3/4) majority vote of all Directors; provided, however, that the Director who is the subject of the removal action shall not be entitled to vote on such an action or be counted as a voting member of the Board when calculating the required three-fourths (3/4) vote; and provided further, that each vote to remove a Director shall be a separate vote on the sole question of the removal of that particular Director.
2. Any non-voting liaison, **other than the liaison appointed by GAC**, may be removed, following notice to that liaison and to the organization by which that liaison was selected, by a three-fourths (3/4) majority vote of all Directors if the selecting organization fails to promptly remove that liaison following such notice.

ARTICLE X: GENERIC NAMES SUPPORTING ORGANIZATION

Section 3. GNSO COUNCIL

1. Subject to the provisions of the Transition Article of these Bylaws, the GNSO Council shall consist of two representatives selected by each of the Constituencies described in Section 5 of this Article, and three persons selected by the ICANN Nominating Committee. There may also be a liaison to the GNSO Council appointed by the **GAC** ~~from time to time~~, who shall not be a member of or entitled to vote on the GNSO Council, but otherwise shall be entitled to participate on equal footing with members of the GNSO Council.

ARTICLE XI: ADVISORY COMMITTEES BODIES

Section 1. GENERAL

The Board may create one or more Advisory **Bodies** in addition to those set forth in this Article. Membership of **Advisory Bodies** may consist of Directors only, Directors and non-directors, or non-directors only, and may also include non-voting or alternate members. Advisory **Bodies** shall

have no legal authority to act for ICANN, but shall report their findings and recommendations to the Board.

Section 2. GOVERNMENTAL ADVISORY COMMITTEE (GAC)

- a. The GAC should consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements **or where they may affect public policy issues.**
- b. Membership in the GAC shall be open to all national governments. Membership shall also be open to Distinct Economies as recognized in international fora, and multinational governmental organizations and treaty organizations, on the invitation of the GAC through its Chair. ~~or on invitation of the ICANN Board.~~
- c. The GAC may adopt **its own charter and** internal operating principles or procedures to guide its operations.
- g. The GAC may ~~from time to time~~ designate a non-voting liaison to each of the Supporting Organization Councils and Advisory Committees, to the extent the GAC deems it appropriate and useful to do so.
- h. The Board shall notify the Chair of the GAC **in a timely manner** of any proposal for which it, **or any of ICANN's supporting organizations or advisory bodies identified in Articles VIII to XI**, seek public comment, and shall **take duly into account** any response to that notification prior to taking action.
- i. **The GAC may put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies.**
- j. **The advice of the GAC on public policy matters shall be duly taken into account both at the policy-drafting and at the decision-making stage. ICANN will inform the GAC on how it intends to take account of such advice. In the event that the majority of the ICANN Board is in conflict with the GAC advice the ICANN Board shall state the reasons why it cannot follow that advice. In this case, the GAC and the ICANN Board will try, in good faith and in a timely and efficient way, to find a mutually acceptable solution.**

k. If no such solution can be found, the ICANN Board will, in its decision, explain the reasons why the GAC advice was not followed, without prejudice to the rights and obligations of GAC members with regard to public policy issues falling within their responsibilities.

SECTION 3 – SPECIFIC ADVISORY COMMITTEES

There shall be at least the following **other Advisory Bodies**:

- 1. Technical Advisory Committee**
- 2. Security and Stability Advisory Committee**
- 3. Root Server System Advisory Committee**
- 4. At Large Advisory Committee**

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ATTACHMENT B: GAC Amendments to Committee on ICANN Evolution and Reform's "Second Supplemental Implementation Report (with Revised Bylaws)" of 23 October 2002 – Article XI-A

ARTICLE XI-A: OTHER ADVISORY MECHANISMS

Section 1. EXTERNAL EXPERT ADVICE

1. Purpose.

Seeking external expert advice is intended to allow the policy-development process within ICANN to take advantage of existing expertise that resides in the public or private sector but outside of ICANN. In those cases where there are relevant public bodies with expertise, or where access to private expertise could be helpful, the Board and constituent bodies should be encouraged to seek advice from such expert bodies or individuals.

2. Types of External Expert Advice

- (a) On its own initiative or at the suggestion of any ICANN body, the Board may appoint, or authorize the President to appoint, Expert Advisory Panels consisting of public or private sector individuals or entities. If the advice sought from such Panels concerns issues of public policy, the provisions of Section 1 (3) (b) of this Article shall apply.

- (b) In addition, in accordance with Section 1(3) of this Article, the Board may refer issues of public policy pertinent to matters within ICANN's mission to a multinational governmental or treaty organization.

3. Process for Seeking Advice – Public Policy Matters.

- (a) The Governmental Advisory Committee may at any time recommend that the Board seek advice concerning one or more issues of public policy from an external source, as set out above.

- (b) In the event that the Board determines, upon such a recommendation or otherwise, that external advice should be sought concerning one or more issues of public policy, the Board shall, as appropriate, consult with the Governmental Advisory Committee regarding the appropriate source from which to seek the advice and the arrangements, including definition of scope and process, for requesting that advice.
- (c) The Board shall, as appropriate, transmit any request for advice addressed to a multinational governmental or treaty organization, including specific terms of reference, to the Governmental Advisory Committee, with the suggestion that the request be transmitted by the Governmental Advisory Committee to the multinational governmental or treaty organization.

4. Process for Seeking and Advice – Other Matters. Any reference of issues not concerning public policy to an Expert Advisory Panel by the Board or President in accordance with Section 1 (2) (a) shall be made pursuant to terms of reference describing the issues on which input and advice is sought and the procedures and schedule to be followed.

5. Receipt of External Advice and its Effect. External advice pursuant to this Section shall be provided in written form. Such Advice is not binding, and is intended to augment the information available to the Board or other ICANN body in carrying out their responsibilities.

6. Opportunity to Comment. The GAC, as well as the Supporting Organizations and other Advisory Committees, shall have an opportunity to comment upon the external advice, prior to its consideration by the Board.