

Johannesburg, 29 June 2017

GAC Communiqué – Johannesburg, South Africa ¹

I. Introduction

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Johannesburg, South Africa from 26 to 29 June 2017.

62 GAC Members and 6 Observers attended the meeting.

The GAC meeting was conducted as part of ICANN59. All GAC plenary and Working Group sessions were conducted as open meetings.

II. Inter-Constituency Activities & Community Engagement

Meeting with the ICANN Board

The GAC met with the ICANN Board and discussed:

- 2-character country codes at the second level.
- The Board’s response to GAC Advice on Intergovernmental Organization (IGO) protections.
- Recent dialogue between the GAC, the GAC Public Safety Working Group and the ICANN CEO on mitigating domain name abuse.
- Improvement to ICANN document handling.
- Receiving Board responses to GAC Advice earlier.
- Changes in Board and ICANN Organization procedures for processing GAC Advice.
- Options for GAC adding value to the annual GDD Summit.
- Opportunities for the GAC to contribute to ICANN work on the interaction between the European Union General Data Protection Regulation and Registration Directory Services.

Meeting with the Generic Name Supporting Organization (GNSO)

The GAC met with members of the GNSO Council and discussed procedural aspects of Red Cross Red Crescent and IGO protections; enhanced GAC engagement with PDPs; implementation of

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

recommendations of the GAC-GNSO Consultation Group; and the regular GNSO review of the GAC Communiqué.

Meeting with the Country Code Name Supporting Organisation (ccNSO)

The GAC met with the ccNSO and discussed the ccNSO PDP on a retirement and review mechanism for ccTLDs; the Cross Community Working Group on Use of Country and Territory Names as TLDs and next steps with geographic names policy development; and support for the GAC Working Group on Under-Served Regions with regard to ccTLD issues.

Meeting with the At Large Advisory Committee (ALAC)

The GAC met with ALAC and discussed ALAC-GAC cooperation on policy development work of mutual interest and in underserved regions; community workload challenges; and the cross-community sessions on geographic names scheduled as part of ICANN 59.

Cross-Community Discussions

GAC Members participated in relevant cross-community sessions scheduled as part of ICANN59.

III. Internal Matters

1. Olof Nordling

The GAC expresses its sincere appreciation and thanks to Olof Nordling, who is shortly retiring from ICANN. He has provided devoted support and longstanding counsel to the GAC of the highest professional standard and will be missed as an adviser and a great friend.

2. New Members

The GAC welcomed St Kitts and Nevis as a new Member and the Regional Technical Commission of Telecommunications (COMTELCA) as a new Observer. This brings GAC membership to 173 Members and 36 Observers.

3. Next High Level Governmental Meeting

Spain declared its willingness to host the next High Level Governmental Meeting (HLGM) to take place in Barcelona during ICANN63 in October 2018. The GAC expressed its sincere gratitude to Spain for this welcome declaration.

4. GAC Working Groups: Update as Reported to the GAC

[The GAC Public Safety Working Group](#) (PSWG) briefed the GAC on recent progress on the Domain Name System (DNS) abuse mitigation and Registration Directory Service (RDS) work streams.

Regarding DNS abuse mitigation, the GAC met the new ICANN Consumer Safeguards Director and offered its support for his role and work, including the envisioned Ad Hoc Community Group on Consumer Safeguards. Presentations on the Domain Abuse Activity Reporting Project (DAAR) and the intermediate report on abuse of the DNS prepared for the CCT Review Team provided useful data to assess measures to prevent abuse. Building on intersessional exchanges with the ICANN Board and ICANN CEO, the PSWG will participate in initiatives including the DAAR Project, the Identifier Technology Health Index and the DNS Marketplace Health Index, with the aim to define systematic public reporting by ICANN on DNS abuse and related mitigation efforts.

Regarding Registration Directory Service (RDS), the GAC was briefed on progress of the Privacy and Proxy Services Accreditation IRT and the RDS Review Team.

[GAC Working Group to Examine the Protection of Geographic Names in any Future Expansion of gTLDs](#): The Working Group participated in the webinars organised by the GNSO on 25 April 2017 in relation to the use of geographic names at the top level. The Working Group met during ICANN 59 and considered the “strawperson” document prepared by the Co-Chairs of the Working Group on Subsequent Procedures for New gTLDs based on input received during the webinars. This document was used as the basis for interactions in the Cross-Community Discussion on Geographic Names at the Top-Level organized during ICANN59.

[The GAC Working Group on Under-Served Regions](#): The Working Group continues to collaborate with ICANN’s Government Engagement (GE) and other departments to organise the capacity development sessions; the most recent events include:

- The second regional workshop in Fiji on 28 and 29 April 2017, targeting Pacific island countries.
- The USRWG and PSWG Capacity Development Workshop for African GAC Members, Law Enforcement and Consumer Protection Agencies on 23 and 24 June 2017 in Johannesburg, South Africa.
- A round table dialogue on ICANN’s GAC capacity development initiatives during the WSIS forum in June 2017, in Geneva.

The Working Group is working with the GE and Development and Public Responsibility (DPRD) Teams to establish an evaluation framework to continuously evaluate GAC capacity development activities.

The GAC is looking forward to continued support from the ICANN org for the activities of the working group to support participation from underserved regions in GAC and ICANN policy processes. The working group has developed a tentative calendar of future capacity development initiatives for the next 2 years

The working group will continue to collaborate with the ccNSO and Public Technical Identifiers (PTI) to complete the Frequently Asked Questions (FAQ) document on delegation and redelegation of ccTLDs.

[The GAC Human Rights and International Law Working Group](#) received an update from the rapporteur of the Cross-Community Working Group - Accountability Workstream 2 sub-group on Human Rights regarding the current status and next steps for finalizing the Framework of Interpretation for ICANN's Bylaw core value to respect internationally recognized human rights as required by applicable law. The Co-Chairs of the HRILWG reported on their contact with the UN Working Group on Guiding Principles on Business and Human Rights with regard to their potential applicability to ICANN.

[The GAC Working Group to Examine GAC's Participation in NomCom](#) reviewed the draft document "GAC Criteria for NomCom". The working group will contribute with the revision of the text during the next months in order to present a new version during ICANN60.

5. Board-GAC Recommendation Implementation Working Group (BGRI-WG)

The BGRI-WG and the GAC met, adopted GAC-Board post-communique exchanges as a standard operative procedure, and agreed on a set of activities that the BGRI-WG should start working on next.

6. GAC Operating Principles

The GAC agreed to minor amendments to the GAC Operating Principles, and will consider options for a holistic review of the full Operating Principles.

7. GAC Independent Secretariat

The GAC noted that work is underway to renew the current contract with ACIG to provide an independent secretariat service to the GAC. Further pledges are sought and encouraged as a matter of urgency. In addition, the GAC will work on mid-term solutions with a view to finding sustainable funding arrangements.

IV. Enhancing ICANN Accountability

The GAC agreed to adopt interim arrangements for GAC participation in the Empowered Community Administration, pending further intersessional work.

The GAC participated in the Community Forum on proposed changes to Fundamental Bylaws and will consider its response within the framework provided for in the Bylaws.

The GAC was briefed by one of the Co-Chairs of the CCWG-Accountability Work Stream 2 on the current work of each sub group of the CCWG. Some GAC Members expressed concerns regarding the proposed method of work of the sub-group on jurisdiction in relation to actions to be taken to resolve identified issues and undertake analyses of all possible solutions. Some other GAC Members supported the approach taken by the CCWG.

V. Follow-Up on Previous Advice and Other Issues

1. 2-Character Country Codes at the Second Level

With respect to the 2-Character Country Codes at the Second Level GAC Copenhagen Communiqué Advice (para VI.4), the GAC;

- a) welcomes and appreciates the decision made by ICANN Board directing the President and CEO of ICANN or his designee(s) to take necessary actions for satisfactory resolution of the concerns raised in that Advice; and
- b) welcomes the announcement made by the President and CEO of ICANN of his intention to create a task force to resolve the concerns mentioned in the above communiqué. In this regard the GAC proposes that the mandate and working methods of the above mentioned Task Force be determined in consultation with GAC leadership and GAC members, and other interested parties.

2. Red Cross Red Crescent Protections

The GAC welcomed the GNSO's re-convening of the Protection of IGO-INGO Identifiers in All gTLDs PDP Working Group in order to re-examine the recommendations on protections for Red Cross and Red Crescent identifiers following the most recent GAC advice in its Copenhagen Communiqué. GAC representatives look forward to contributing to its work accordingly.

3. Registration Directory Services (RDS) and Data Protection Rules

GAC Members attended the cross-community sessions dedicated to discussion of the Next Generation RDS Policy Development Process (PDP) and the EU General Data Protection Regulation (GDPR). The GAC supports any efforts by the ICANN Board, Organisation and Community, to: (1) define the purpose of collection and use of RDS Data Elements, with input from relevant experts, including from the GAC; (2) explore solutions, including guidance and technical implementation, to address Data Protection requirements; and (3) to align deliveries of the Next Generation RDS PDP with the timing of changing regulations across the world.

4. Geographic Names as Top-Level Domains

GAC Members welcomed and participated in the cross-community sessions held at ICANN59 on geographic names at the top level. The GAC considers that any further process of policy review and development should: (a) continue to allow all stakeholder groups to participate equally; (b) take into account the history and rationale of the arrangements currently in place; and (c) apply an evidence-based policy approach to any proposals for future arrangements.

Regarding the use of geographic names at the top level, the GAC recalls its advice and positions as stated in the following documents:

- GAC Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains (2005), paragraphs 4.1.1. , 4.1.2. and 8.3.
- GAC Principles Regarding New gTLDs (2007), sections 1.2 , 2.1 ,2.2, 2.3, 2.4 , 2.7 and 2.8.
- GAC Nairobi Communiqué (2010): Application of 2007 Principles.
- GAC Durban Communiqué (2013): Future application of 2007 Principles.
- GAC Helsinki Communiqué (2016): 3-letter codes.

5. Competition, Consumer Trust and Consumer Choice Review Team (CCT-RT)

The GAC was briefed on the work of the Competition, Consumer Trust and Consumer Choice Review Team by members of the team.

GAC Members will continue to follow the work of the team as it finalizes its recommendations.

6. New gTLDs: Policy Issues

The GAC reviewed the range of issues with public policy implications that are being considered by the New gTLD Subsequent Procedures PDP Working Group. Options for better mapping of issues and feedback on GAC inputs will be explored with the working group.

7. Challenges for Inclusive and Meaningful Engagement with ICANN Work

The GAC expressed concerns to the Board and other parts of the ICANN community that there are increasing challenges to effective and meaningful GAC participation in a range of ICANN activities including important policy development work currently being carried out in multiple working groups.

This, in the GAC’s view, is becoming an increasingly challenging element. Possibilities for improving this situation could be: a) the setting of priorities among different work streams in the ICANN framework; and b) the provision of documentation that would allow stakeholders with limited resources to more easily understand and assess the issues and relevance of work streams, and facilitate their active participation.

VI. GAC Consensus Advice to the Board²

The following items of advice from the GAC to the Board have been reached on the basis of consensus as defined in the ICANN Bylaws.³

1. Intergovernmental Organization (IGO) Protections

- a. The GAC reiterates its Advice that IGO access to curative dispute resolution mechanism should:**
 - I. be modeled on, but separate from, the existing Uniform Dispute Resolution Policy (UDRP)
 - II. provide standing based on IGOs’ status as public intergovernmental institutions, and
 - III. respect IGOs’ jurisdictional status by facilitating appeals exclusively through arbitration.

² 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>

³ Bylaws s.12.2.(a)(x) The advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the Board determines to take an action that is not consistent with Governmental Advisory Committee advice, it shall so inform the Governmental Advisory Committee and state the reasons why it decided not to follow that advice. Any Governmental Advisory Committee advice approved by a full Governmental Advisory Committee consensus, understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection (“GAC Consensus Advice”), may only be rejected by a vote of no less than 60% of the Board, and the Governmental Advisory Committee and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution. The Governmental Advisory Committee will state whether any advice it gives to the Board is GAC Consensus Advice.

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Governmental Advisory Committee

The GAC expresses concern that a GNSO working group has indicated that it may deliver recommendations which substantially differ from GAC Advice, and calls on the ICANN Board to ensure that such recommendations adequately reflect input and expertise provided by IGOs.

RATIONALE

This Advice aligns with the view of governments that IGOs perform important public functions for citizens worldwide, and that protecting their identities in the DNS serves to minimize the potential for consumer harm.

VIII. Next Meeting

The GAC will meet during ICANN60 in Abu Dhabi, United Arab Emirates, scheduled for 28 October-3 November 2017.

