

GAC-GNSO Leaderships Call

21 May 2019

Attendees

GAC: Ashley Heineman, Georgios Tselentis, Manal Ismail, Par Brumark, Olga Cavalli, Chris Lewis Evans, Luisa Paez, Jonathan Passaro, Jorge Cancio

GNSO: Keith Drazek, Pam Little, Rafik Dammak

Staff: Fabien Betremieux, Gulten Tepe, Steve Chan, Nathalie Peregrine, Marika Konings, Julia Charvolen, Mary Wong

Apologies: Julf Helsengius, Rob Hoggarth, Benedetta Rossi

1. Welcome

Changes in GAC leadership: end of term for France and China as Vice-Chair, start of term for Argentina and Canada. Olga Cavalli (Argentina) is now the GAC focal point for coordination with the GNSO and the point of contact for GNSO Liaison to the GAC.

2. GNSO Proposal for ICANN65 Joint Meeting Agenda

(a) IGO-INGO CRP

(b) SubPro WT-5

(c) EPDP Phase 2

(d) Legislative tracker topic

- Objective is to have substantive discussions, only limited time available. Suggestion to eliminate item (a) as separate time is already dedicated to it (see below). Consider focusing on one topic so it is possible to go into details.
- Agreement In principle, however, there may be some challenges in relation to the timing as currently proposed as there is a conflict with the GNSO/Board meeting on Monday and an EPDP Team meeting on Tuesday. It is understood there may be some flexibility on the scheduling.
- Clarification on the proposed **legislative tracker** agenda item: this is following recent GNSO interactions with ICANN org on the quarterly legislative and regulatory tracking initiative to identify at an early stage legislative initiatives that may impact ICANN. The GNSO Council sees an opportunity for further engagement with the GAC and its members, as well as an opportunity for the GAC, GNSO and ccNSO to collaborate on the reciprocal impacts of national legislations and policy-development at ICANN
- Clarification on the **SubPro WT5** agenda item: no specific issue to discuss, but suggested as it is known as of high interest to the GAC. Agreement that it may not be necessary.
- **Final Decision on agenda:** focus on EPDP Phase 2 and r legislative tracker, noting that only 30 minutes may be available for this meeting.

3. EPDP: Clarifications of recent developments

GAC and GNSO Leaders discussed a number of recent developments with a view to clarify their mutual understanding, in particular:

- **EPDP Phase 2 scope** – In its review of the GAC Kobe Communiqué, the GNSO Council mentioned having discussed and reconfirmed the scope of phase 2. The GAC expected the EPDP Team to confirm scope. Clarification: the GNSO Council as manager of the EPDP, is responsible for setting and confirming the scope of work, and decided to reconfirm the charter as it was deemed fit for purpose and did not need to be reopened. It is now up to the EPDP Team to develop a work plan and approach, taking into account the scope of work.
- **Phase 2 Timeline** – GAC leaders referred to the open ended nature of the Phase 2 timeline compared to phase 1, as the basis for Kobe GAC Advice, and reiterated the expectation to see phase 2 issues solved in a timely manner, similar to phase 1. GNSO Council leadership confirmed the GNSO's willingness to conduct the work of Phase 2 as expeditiously as possible, to be informed by a detailed work plan, with expected deliverables.
- **Implementation of EPDP policies as soon as they are available** – given the apparent assumption by the GNSO that this piece of GAC Advice was relating to RDAP, the GAC clarified that it meant to refer to any new policy. More broadly, GNSO Leadership indicates that the review of the impact of EPDP Phase 1 recommendations on existing policies is still ongoing and that a session at ICANN65 expected to help inform that process.
- **Resuming of PPSAI Implementation** – GAC Leadership sought an update on GNSO Council's consideration of the matter. GNSO Leaders summarized the content and background of their recent letter to ICANN org. Given that there were no agreed GNSO Council position, it called onto ICANN Org to decide on next steps as this is considered an implementation issue and as such within its remit, while recommending further analysis, in collaboration with the IRT, as to what parts of the policy implementation are interdependent with GDPR and which aren't. It was also mentioned that some IRT members believe some of the policy recommendations may need to be revisited in light of developments since 2016, when they were adopted.
- **GNSO handling of Board resolution on Phase 1 Recommendations and impact on Phase 2** - Considering the non adoption of portions of two recommendations, and given the bylaw mandated consultation process to be implemented as a consequence, the GNSO Council will be meeting on Tuesday 28 May for a focused discussion on how to move forward. It is expected that the corresponding policy recommendation would be referred back to the EPDP Team for further work.
- **Proposed ICANN65 GAC HIT Session on the Unified Access Model:** GAC Leaders followed-up on recent SO/AC discussions to clarify that the intent of the GAC proposal is follow-up on ICANN's proposed UAM (a year ago) and the TSG Model. It is meant not to compete with EPDP Phase 2 but to complement it, in particular by level-setting the community on what a unified model could be, possibly based on existing models elsewhere. The clarification was welcomed and the intent acknowledged as seeking a wider than the scope of EPDP Phase 2.

Action item: Keith to review and confirm relationship with RDAP referenced in the GNSO Council review of the GAC Communiqué.

4. IGO Protections (GAC/GNSO Dialogue) – Monday 24 from 11.30 to 12.30

- **ICANN65 Dedicated Session** - GAC leadership decided to schedule this session to enable a constructive solution-oriented dialogue, diving deep in the substance of the matter as opposed to re-ashing discussions of PDP or GNSO processes. The GAC referred to a Board facilitated dialogue as previously requested in the Barcelona Advice. The Board has responded that it stands ready to assist, if invited by the GAC and GNSO. GNSO is committed to participate in this session, provided that the logistics can be worked out.
- **Update from GNSO Leadership on latest decisions and current thinking:** considering re-chartering the RPM Phase 2 PDP to set up a dedicated group to focus on recommendation 5 of the CRP PDP Final Report, possibly under PDP 3.0 and EPDP structures, with appropriate expertise. The GNSO Council has approved and sent recommendations 1-4 to the ICANN Board for its consideration and now expects that it either adopts or rejects them. The matter is now out of the hands of the GNSO Council.
- **GAC concerns with Rec. 5** - GAC Leaders indicated it is problematic to separate recommendation 5 from the others and moving forward on the basis of a flawed recommendation. The GNSO Council Leadership indicates this is the reason why the recommendation was not approved and it is providing an opportunity to redo the work appropriately. GNSO Council is currently looking at the exact scope which it expects would be informed by the discussion with the GAC at ICANN65.
- **GAC/GNSO dialogue on Rec. 1-4:** GAC Leaders expressed concerns with the decision by GNSO Council to adopt recommendations 1-4, a decision which took them off guard and created a fait accompli when in fact they thought the GAC was discussing a way forward with the GNSO. GAC Leaders also questioned the purpose of a GAC/GNSO dialogue if the GNSO Council considers that these recommendations are not in its purview anymore.
- **Board facilitation** - GAC Leadership requested whether the GNSO would agree to requesting the Board facilitation or not. GNSO Leadership indicated that the only way forward may be for the ICANN Board to decide to accept or reject the recommendations. However, it will consider the GAC's request with the GNSO Council. It was noted that the March 2017 Board-facilitated discussion could serve as a reference, and that in the meantime, there has been no GAC/Board discussion of the issue since the GNSO resolution.

Action items: GAC leadership to follow up with a written request regarding the facilitated dialogue.

Action item: GNSO Leadership to discuss with Council the request for a facilitated dialogue and confirm to the GAC prior to ICANN65 whether or not a facilitated dialogue is supported.

Action item: staff to recirculate documents and outcomes of previous facilitated dialogue (March 2017).