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ICANN68 Virtual Policy Forum, 22-25 June 2020

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1. **MEETING ATTENDANCE & MEMBERSHIP**

Seventy eight (78) GAC Members and three (3) Observers attended the meeting remotely.

GAC membership currently stands at 178 Member States and Territories, and 38 Observer Organizations. A list of ICANN68 GAC meeting Member and Observer attendees is provided in Attachment 1.

The ICANN68 GAC Communiqué is published on the GAC website at: https://gac.icann.org/contentMigrated/icann68-gac-communique.

Presentations used by speakers during the meeting and supporting briefing prepared for the GAC can be accessed from the GAC website: https://gac.icann.org/agendas/icann68-virtual-meeting-agenda.

Full transcripts for each session are to be made available from the ICANN68 Public Meeting website, via the relevant agenda items on the GAC’s website agenda page listed above.

1.1. **Opening Plenary Session**

The GAC Chair formally opened the GAC ICANN68 meeting. She explained the logistics for the meeting week and allowed GAC staff to explain technical information about meeting resources on the GAC website and use of the Zoom Room and Congress Rental Network interpretation application.

The GAC Chair reviewed specific aspects of the meeting week agenda - particularly noting the opportunities to participate in the ICANN cross community plenary sessions, and other GNSO PDP sessions. She noted the plan to offer daily 30-minute “catch-up” updates for GAC Members who may not be able to fully participate in the virtual meeting due to time zone challenges or other reasons.

The GAC Chair reviewed the GAC work efforts conducted intersessionally since ICANN67. She specifically noted progress on the top GAC priorities including new gTLD Subsequent Rounds, DNS Abuse Mitigation and Domain Name Registration Directory Service and Data Protection issues. She also reviewed the GAC’s public comment participation and notable correspondence since the last meeting.

The GAC Chair also summarized recent SO/AC leadership meetings held prior to the ICANN68 meeting. She explained that recent community leaders’ deliberations with ICANN org have included discussions regarding future “virtual” public meeting criteria, improvements to ICANN’s multistakeholder model and the status of organizational and structural reviews - particularly implementation of Work Stream 2 Accountability recommendations.

The GAC Chair reminded session attendees of the Communique remote drafting process, previously used at ICANN67, that would again be used for this meeting. Noting that a decision to produce a reporting communique or a more substantive document would likely develop organically over the course of the week, the Chair asked that Members share any proposals for Communique language as early as possible with the GAC list to allow for more efficient remote discussion of the Communique. It was noted that regardless of the ultimately agreed Communique format and substance, that additional time would be made available at the end of the meeting so that all GAC Members would have the opportunity to review the Communique in their own time zone before publication.
2. PUBLIC POLICY AND SUBSTANTIVE ISSUES

2.1. Subsequent Rounds of New gTLDs

The GAC prioritized consideration of policy issues related to Subsequent Rounds of new gTLDs during ICANN68, notably by (1) devoting three GAC sessions to this topic, (2) reviewing the GAC Scorecard, and (3) by engaging in the GNSO New gTLD Subsequent Procedures PDP Working Group (Sub Pro PDP WG) meeting. This section of the meeting minutes reflects the combination of several GAC sessions on the topic during the meeting week.

GAC Leadership conducted intersessional work in order to prepare discussions on key topics of high interest to the GAC, as identified by GAC Members during ICANN67:
- Applicant Support
- Closed Generics
- Public Interest Commitments/Global Public Interest
- GAC Early Warnings/GAC Advice
- Community Based Applications

The main aims for GAC preparations, discussions and engagement in this regard were to:
- Provide an update on the five key topics of interest to the GAC since ICANN67;
- Engage with the PDP WG Co-Chairs on the topics of interest to the GAC; and
- Identify next steps in preparation for the delivery of the New gTLD Subsequent Procedures PDP WG final report for public comment expected mid-July 2020.

Highlights from GAC Plenary discussions on Subsequent Procedures:

The GAC considered an update from the Sub Pro PDP WG Co-Chairs on work conducted since ICANN68, in particular consideration by the WG of the intersessional compilation of individual GAC Members input, and the Sub Pro PDP WG timeline. The GAC notes that the draft final report is expected to be posted for public comment in July 2020 for 40 days.

Some GAC Members expressed concerns with the use of a standard 40-day public comment proceeding for a topic of high priority to the GAC and the ICANN Community. The Sub Pro PDP WG Co-Chairs noted such concerns while confirming that the final report will be nevertheless delivered to the GNSO Council at the latest by the end of this calendar year.

The Sub Pro PDP WG Discussed two pending topics during ICANN68 and provided an update to the GAC:
1. Private Resolutions of String Contentions
2. Predictability Framework for Next Rounds of New gTLDs

Regarding auctions as a private mechanism to resolve string contentions, some GAC participants expressed concerns, in light of prior GAC positions on the issue, asking why other options have not been further considered by the WG. As to mechanisms to provide for predictability to applicants in future rounds, WG Co-Chairs flagged that the PDP WG recommends establishing a new Predictability Framework along with a new Standing Predictability Implementation Review Team (SPIRT) and noted initial community support of such recommendation. Some GAC Members noted that the creation of a
SPIRT may add complexity, and raised concerns on its consistency with existing roles and responsibilities according to the ICANN Bylaws as well as its added-value. It was proposed that if established, the new mechanism be lean, inclusive and transparent.

Some GAC Members expressed the view that the lack of a formal PDP WG recommendation on the delegation of closed generics would imply that the relevant Board Resolution from the 2012 round would still apply. Additionally, while supporting a new round of new gTLDs in principle, some GAC Members recalled the importance of a cost/benefit analysis being conducted prior to the next round.

GAC leaders and topic leads will continue to coordinate intersessional work on the high-interest topics. The agreed next step is to develop GAC consensus input to the public comment period expected in July 2020 on the PDP WG Final Report. Interested GAC Members are encouraged to consult the GAC Scorecard on Subsequent Rounds of New gTLDs and to approach GAC topic leads in order to contribute on any of the relevant policy topics.

**Action Points:**
- **GAC Members** are encouraged to approach GAC topic leads in order to contribute to any of the Subsequent Procedures key issues for the public comment proceeding.
- **GAC Leadership** will continue to lead intersessional work to coordinate GAC consensus input to the SubPro PDP WG public comment on the PDP WG Final report expected in mid July 2020.

### 2.2. WHOIS and Data Protection

Following the pre-ICANN68 GAC Webinar which provided a detailed update on the status of EPDP on gTLD Registration Data, representatives of the GAC Small Group on EDPD/GDPR focused their presentation on the assessment of the likely outcome of the EPDP. They proposed a set of parameters to monitor in the following weeks in order to determine whether potential policy recommendation could be acceptable from a public policy concerns perspective. The parameters are:

- The need for any final Phase 2 recommendations to include an effective mechanism for the SSAD to evolve, including in response to future legal guidance;
- A clear path for addressing pending key policy issues including WHOIS Accuracy, the distinction in treatment of data from Legal vs. Natural entities, and Privacy/Proxy;
- The ability for ICANN Contractual Compliance to effectively enforce the recommended policy.

The presentation also covered a range of options available to the GAC in terms of next steps regarding each policy area in which the GAC’s concerns may not be addressed by the time the EPDP concludes, including, in addition to the above, the centralization and automation of disclosures of non-public gTLD registration data.

Several GAC Members provided input during the sessions to highlight:
- Their strong preference for the continued availability of redacted portions of WHOIS data for the purposes of a country’s cybersecurity, cybercrime investigation and consumer safeguarding responsibilities; their urging for the expedited development of a Standardized model for Access/Disclosure of WHOIS data (SSAD), and call for interim arrangements to be in place and audited from time to time to access their effectiveness;
• The need for seeking consensus in the EPDP process, suggesting that not all that is desirable for the GAC may be achievable in a multi-stakeholder consensus-building environment;

• Their recognition and appreciation for the hard work of the GAC Small Team and support staff within the EPDP on behalf of the whole GAC.

2.3. DNS Abuse Mitigation

The GAC heard presentations on the impact of COVID-19 related DNS Abuse and on efforts of authorities to counter abuse and provide awareness raising materials for consumers and businesses. Presenters noted the efforts of registries and registrars to address DNS Abuse both proactively and reactively, as well as the initiatives by SSAC and ICANN OCTO to support the detection of abuse and collect and share best practices.

During the sessions on DNS Abuse GAC Members noted that WHOIS accuracy requirements adopted by some ccTLDs, including those with open registration policies, are conducive to lowering rates of DNS Abuse. It was highlighted that this is particularly the case when such requirements are clear, and associated with automatic verifications and effective suspension policies. On the issue of publishing the reseller information in public registration data, as recommended by the CCT Review, one GAC participant noted that extensive network of resellers used by some registrars are not an obstacle to identifying the reseller who has the direct relationship with the registrant.

In terms of future work regarding the mitigation of DNS Abuse, GAC Members suggested engagement with ICANN’s Consumer Safeguard function to more effectively address public interest and safeguards issues, as well as to conduct research regarding the risk involved and ICANN’s role in the deployment of DNS-over-TLS/DNS-over-HTTPS.

2.4. Rights Protection Mechanisms and IGO Protections

An update on recent developments and current status of these issues was provided by the representative for the World Intellectual Protection Organization (WIPO), topic lead for the GAC on matters of IGO names protection, also co-chair of the GNSO’s PDP WG on the Review of All Rights Protection Mechanisms (RPMs).

With respect to the RPM PDP, the WG is reported to be working towards completion of Phase 1 of its work in the coming months, that is the review of the Trademark Clearing House (TMCH), its associated Sunrise and Claims processes, and the Uniform Rapid Suspension (URS) system. In this context, and as the chartering of Phase 2 is being considered for the review of the Uniform Dispute Resolution Policy (UDRP), it was noted that the GAC may wish to consider the parameters and possible impacts of such work. In particular, it was recalled that the UDRP is the longest serving ICANN Consensus Policy and has continually proven an important tool, subject to increasing demand, for addressing not only IP infringement, but also increasingly, more sophisticated fraud. As a consequence, WIPO advised that the review of the UDRP should be conducted carefully so as to not risk undermining its effectiveness.

Regarding the access of IGOs to Curative RPMs, it is understood that the GNSO is looking for a volunteer to chair a new IGO Work Track, which follows re-chartering for a dedicated and expedited policy process. This new work follows GAC/GNSO interactions on the contested
outcome of the previous GNSO PDP on this matter. In the meantime, temporary protections of IGO names and acronyms in New gTLDs, which were initially reserved from registration, remain in place. Regarding the former, it was recalled that the GAC had compiled a list of reservations for full IGO names in two languages (the 22 March 2013 GAC IGO List). The GAC provided Advice in the San Juan Communique to ensure the accuracy and completeness of this list. During ICANN66, ICANN org reported the successful completion of an effort to assess feasibility and contact all IGOs. The GAC is still due to consider how future changes to this list should be handled.

2.5. CCWG-Accountability Work Stream 2 Implementation

The Human Rights and International Law Working Group (HRIL WG) Co-Chairs provided background information about development of the CCWG Accountability Work Stream 2 (WS2) Recommendations and informed GAC Members about the status of ICANN org efforts toward implementation of those recommendations. Subsequently, the Co-Chairs summarized previous GAC consideration of options for productive GAC involvement in the implementation efforts, and identified the substantial number of recommendations that also require specific GAC attention.

Focusing on the implementation of the new ICANN Human Rights Core Value, Co-Chairs of the Cross Community Work Party on Human Rights (CCWP-HR) were invited to share information about their efforts to create an implementation tool for ICANN Supporting Organizations and Advisory Committees (including the GAC) to help organize and track implementation of the various WS2 recommendations including those that specifically impact human rights.

GAC Members were also reminded that the WS2 Accountability effort had not found a path forward to address some concerns of certain ICANN community Members about jurisdictional issues. The WS2 Accountability Final Report suggested that another multistakeholder process of some kind could be considered to allow for further consideration, and potential resolution of these concerns. Discussions covered how these issues might be assessed, prioritized and implemented in an effective manner.

The GAC Chair reported on recent SO and AC Chairs discussions regarding the challenge of addressing a large number of pending review recommendations from various sources and the prospects of many more recommendations to come. The GAC Chair noted the need for the GAC to address these issues and encouraged GAC Members to express their interest in either volunteering to participate in cross-community efforts or to contribute to specific GAC implementation efforts that impact GAC operations.

The representative of Iran, GAC Member, stated that depriving Iranian individuals and institutions from their digital resources and Domain Names (like what has happened to domain names of their citizen and cultural and media organizations .com .net .org) and unilaterally removing them from global DNS resource can highly compromise the stability and social capital of their businesses and also could be an example of violating the International human rights. In addition, such actions can extremely undermine the pillars of the Internet governance system and digital trust. The representative of Iran suggested that the issue of the digital unilateral coercive measure (UCM) in the area of digital resources and its impacts especially during the Covid 19 pandemic be considered as an issue of importance to the GAC. This case can happen to all countries and may expand to ccTLDs domain in the future. It is obvious that an
International organization should work under International law and United Nation principles and objectives. The representative of Iran, GAC Member, supported by other GAC Members therefore request ICANN Board and ICANN president / CEO to take necessary action, pursuant to the WS2 Recommendations and associated reports dealing with Jurisdiction to remove obstacles mentioned above in order to facilitate access of these GAC Members to DNS resources as well as to preserve, protect the rights of individuals and citizens of these countries and their individuals and public interests.

**Action Points:**
- **GAC HRIL WG Co-Chairs** to seek GAC volunteers to contribute in WS2 Recommendations implementation efforts that impact GAC operations.
- **GAC HRIL WG and GAC volunteers** to consider working with CCWP-HR on building an implementation tool on substantial areas of GAC concern.

3. **GAC WORKING GROUPS (ON OTHER ISSUES)**

3.1. **GAC Public Safety Working Group (PSWG)**

The GAC PSWG led two sessions with the GAC on DNS abuse mitigation measures and briefed GAC Members on its ongoing efforts to combat COVID-19 linked fraud and abuse. While it was noted that many Registrars showed a strong willingness to communicate with Public Safety officials during this pandemic, and to review domains referred by them, there were nonetheless concerns expressed by Law Enforcement at the continued use of Privacy/Proxy services by those seeking to exploit the pandemic (~65% of the domains referred appeared to use such services), and the resulting delays in investigations. The PSWG also highlighted the need for governments, ICANN, and the Community to take a multi-pronged approach to combating DNS abuse, including consumer and business education and awareness raising, and robust enforcement of applicable ICANN contract provisions.

Members of the PSWG also participated in the Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data and the Cross-Community Session on DNS Abuse. Finally, during and following the ICANN68 meeting, the PSWG held discussions with ICANN’s Contractual Compliance; OCTO, SSR teams, the Security and Stability Advisory Committee, the At-large Advisory Committee, the Registry and Registrar Stakeholder Groups, and the Intellectual Property and Business Constituencies of the GNSO.

3.2. **GAC Underserved Regions Working Group (USRWG)**

The GAC Underserved Regions Working Group (USRWG) updated the GAC on future initiatives in response to the COVID-19 situation, to be conducted in collaboration with the ICANN Community and ICANN’s Government Engagement (GE) and Global Stakeholder Engagement (GSE) teams.

The GAC USRWG has completed the review of the current GAC Travel Support Rules according to its work plan and will seek GAC input and approval after the ICANN68 meeting.

**Action Points:**
- **USRWG** to send the revised version of the GAC Travel Support Rules for GAC approval.
3.3. GAC Universal Acceptance and IDN Working Group (UA-IDN WG)

The Chair of the GAC Universal Acceptance and IDN Working Group (UA-IDN WG) reported on the working group’s intersessional activities since ICANN67. Among other activities, WG members have worked to prioritize their 2020 work plan effort to focus on (1) developing a basic introductory information document on Universal Acceptance to be shared with GAC Members for their use at the national level; and (2) awareness building among and communications to governments on UA-IDN matters.

The WG Chair shared that the WG is closely coordinating with the Universal Acceptance Steering Group (UASG) and the UA Communications Working Group (UA Comms) on communications plans and strategies. This includes the development of UA-related content for use by governments and relevant authorities; and a potential webinar series aimed at informing GAC Members and their colleagues about Universal Acceptance developments and initiatives. The WG Chair also noted that the WG hoped to seek GAC endorsement of the group’s draft Terms of Reference (originally shared prior to ICANN67) shortly after the ICANN68 meeting.

Action Points:
- **GAC Support** will re-circulate the Universal Acceptance and IDN Working Group (UA-IDN WG) Terms of Reference for additional review and comments by GAC Members.

4. CROSS COMMUNITY ENGAGEMENT

4.1. Meeting with the ICANN Board

The GAC met with the ICANN Board and discussed:
- Subsequent Rounds of New gTLDs
- DNS Abuse Mitigation and related issues associated with
  - Privacy/Proxy Services
  - Proactive Anti-Abuse Measures
  - Accuracy of gTLD Registration Data
- Domain Name Registration Directory Service and Data Protection
- Upcoming topics of GAC Interest

New gTLD Subsequent Rounds

Regarding Subsequent Rounds of new gTLDs, the GAC Chair reinforced government concerns with a number of high priority policy areas including: Applicant Support and Participation of Underserved Regions, Closed Generic TLDs, Public Interest Commitments (PICs)/Global Public Interest, GAC Early Warnings and GAC Advice and Community Based Applications. The GAC Chair emphasized, while the GAC continues to consider these matters during and between ICANN meetings, and to reflect its views in relevant GAC Communiques, that it is important that the entire community be given sufficient time to review and respond to the proposed final recommendations of the PDP working group.

The ICANN Board Chair acknowledged the clarity of the GAC’s statement on this matter (included in the related slides) and confirmed that ICANN Community is being and will be given the time needed.
DNS Abuse Mitigation Issues

Regarding Privacy and Proxy services, as part of ongoing consideration of the impact of GDPR compliance efforts on ICANN policies and in particular those concerning the accreditation of privacy/proxy service providers, Board Members stressed their understanding that access to registration data shield by this services is critical and acknowledged following very closely the consideration of this matter by the GNSO.

Regarding the negotiation of proactive anti-abuse provisions in ICANN contracts, Board Members acknowledged that community consensus is needed on both the definition of the problem and what the success criteria would be for a solution, given that incentives and penalties can create unintended consequences. In the meantime, the Board will continue to support community dialogue as it has been doing by facilitating regional and cross-community discussions, by conducting research and developing tools to help inform community discussions, and by providing speakers when requested.

Regarding restoring the ability of ICANN to address gTLD registration data inaccuracies, including resuming the ‘identity validation’ phase of the Accuracy Reporting System (ARS), Board Members noted several challenges preventing the operation of ARS, including the unavailability of many relevant data fields under EPDP policy recommendations and the expiry of contracts with all three vendors on which ARS relied. In response to a question on the responsibility and timeline for restarting the ARS, Board Members stressed that this was a GNSO matter. As far as the recent consideration of this matter in GNSO policy development, Board Members assessed that there were extensive discussion of the matter in the EPDP, leading to the conclusion that under the GDPR, accuracy is solely a right of the data subject, and that the EPDP was not the best venue for addressing the matter. Representatives from the GAC Small Group disagreed with the view that accuracy is only a right of the data subject under GDPR, in line with the GAC’s position expressed in several contributions that the GDPR also mandates that data be maintained accurately for the purpose for which they are processed.

Domain Name Registration Directory Service and Data Protection

Regarding ensuring that the effectiveness of the current requirement for Contracted Parties to provide reasonable access to non-public gTLD registration data, the Board indicated that it will work to ensure that ICANN Compliance continues its “vigorous” enforcement of the Temporary Specification, with the understanding that ICANN Compliance will continue processing complaints to ensure that contracted parties provide reasonable access to third parties on the basis of legitimate interests, except where such interests are overridden by the interests or fundamental rights and freedoms of the Registered Name Holder or data subject pursuant to Article 6(1)(f) GDPR.

Regarding the effectiveness and evolution of any future system for accessing gTLD Registration Data, the Board shared its intention to review EPDP recommendations when complete to ensure they are aligned with ICANN’s bylaws and the best interests of the ICANN community, including the public interest, for eventual implementation by ICANN org.

It was noted that, in the current states of policy discussion, without more guidance or legal certainty the anticipated SSAD model could likely not evolve beyond a ticketing system, despite prior input by
Data Protection Authorities noting that a more centralized model reflected a better, more “common sense”, solution. Board Members hoped that the European Commission could assist in seeking further DPA input on persistent uncertainties, given its right under art. 64 of the GDPR, to introduce questions to the European Data Protection Board.

The study recommended in Phase 1 of the EPDP on the risks, costs, and feasibility of differentiation between legal and natural persons for purposes of registration data, was reported by the ICANN Board as completed by ICANN org and undergoing internal review before it is provided to the EPDP Team as soon as possible. It was noted that ICANN org has also sent some letters and received some information on this topic from ccTLD registry operators for .DK and .FI. Finally, it was noted that Board Members understand that the natural vs legal distinction is one of the Priority 2 issues from the EPDP Phase 2 and not on the critical path for the recommendations on a Standardized System for Access and Disclosure (SSAD).

Other Topics of GAC Interest

Regarding upcoming topics of GAC interest, the GAC Chair noted that the GAC will be closely following and discussing the development of public comments on several current community topics including the Board’s recent consideration of how to more fully address or incorporate matters of global public interest into Board decisions, the next steps regarding community consideration of the evolution of the ICANN multistakeholder community, GAC review (as chartering organization) of the recently developed recommendations of the cross community working group considering options for allocation of new gTLD auction proceeds, and the recommendations encompassed in the recently released final report of the third accountability and transparency review team (ATR3).

A transcript of the entire GAC-Board exchange is appended to the GAC Communique for the ICANN68 Virtual Policy Forum.

5. INTERNAL GAC MATTERS

5.1. GAC Operational Matters - GAC Elections

GAC Support announced the initiation of the 2020 GAC Leadership Election nomination period at ICANN68. It was explained that the overall election process would conclude at ICANN69 (17-22 October 2020). For the 2020 election, there will be open seats for the GAC Chair and five (5) GAC Vice Chairs. The nomination period will extend from ICANN68 until 2 September 2020.

It was noted and discussed that the GAC Chair and three (3) of the current Vice Chairs are eligible for re-election. Staff explained that third party nominations as well as self-nominations are possible. More than one nomination for GAC Chair will require a balloting period and more than five nominations for Vice Chairs will require a balloting period. If balloting is needed for any position, GAC Members will be informed in early September and the now traditional online “Tally” election tool will be utilized. GAC Support will record all nominations on a special 2020 elections page on the GAC website.

Staff also noted that the election process creates an opportunity to update and capture any GAC membership representation changes as the first named representative on the GAC website will be
considered as the voting delegate for each GAC Member. All GAC Members were reminded to check their membership information on the GAC website and to notify gac-staff@icann.org if another listed individual and/or another email address should be used.

Action Points:
- **GAC Support** will send a written announcement to all GAC Members regarding the 2020 GAC Leadership Election upon the close of the ICANN68 meeting.

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### GAC Members (78) participating remotely

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### GAC Observers (3) participating remotely

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<td>GAC Operational Matters - GAC Elections</td>
<td><strong>GAC Support</strong> will send a written announcement to all GAC Members regarding the 2020 GAC Leadership Election upon the close of the ICANN68 meeting.</td>
</tr>
</tbody>
</table>