
GAC MEETING MINUTES

SINGAPORE

22-27 MARCH 2014

Meeting Attendance/Membership

Sixty one GAC members and ten observers attended the meeting.

The GAC welcomed Croatia, Grenada and the Solomon Islands as new members.

The GAC also welcomed as meeting participants: – The Honourable Alvin Dabreo, Minister responsible for ICT, Grenada; Ms Bernadette Lewis, Secretary General, Caribbean Telecommunications Union; and Professor Tim Unwin, Secretary-General, Commonwealth Telecommunications Organisation.

A list of attendees is at Attachment 1.

The GAC Singapore Communiqué is at Attachment 2.

Chair and Vice Chairs Reports

The Chair noted that the recent US Government announcement concerning transfer of IANA functions and other developments on Internet governance provide opportunities for the GAC to contribute.

Meeting Procedure

After discussion, it was decided that all GAC sessions for this meeting would be open, with the exception of sessions dealing with drafting of the communiqué. This accords with recent practice.

GAC Secretariat

GAC members thanked Ms Jeannie Ellers of ICANN staff for her support work to the GAC and wished her well in her new position in ICANN.

The Chair advised that a further bridging agreement between ICANN and ACIG (the Australian Continuous Improvement Group) had enabled the latter to attend this meeting and undertake follow-up work to 30 April 2014. Negotiations to finalise a long-term contract are progressing.

Former Vice Chair

The GAC paid homage to the late Pankaj Agrawala who served as GAC vice chair during the period 2005-2007.

INTER-CONSTITUENCY ACTIVITIES

GAC-Generic Names Supporting Organisation (GNSO) Consultation Group

The GAC met with GNSO members of the GAC-GNSO Consultation group and agreed a charter for the group (see Attachment 3). There was agreement that differences between GAC and GNSO working methods and structures need to be worked through; and that a more structured workflow (“not just e-mails flying around”) would be mutually beneficial. A reverse liaison to GAC is planned to be in place for the London meeting.

[\[Slides\]](#)

ACTION POINT: GAC to advise the Board of agreement on the charter for the group. **DONE.**

Discussion of Brand Registry Issues

GAC considered further the Brand Registry Group proposal for the approval of country names and 2-letter and character codes at the second level. The approach of GAC members on a national basis to this matter varies. Members suggested consideration be given to establishing a register of countries that do not require individual requests to be made. While GAC does not see any role for itself at the operational level, individual members can assist with proposals relevant to their particular country if requested.

ACTION POINT: The outcome of these discussions is to be included in the Singapore Communiqué. **DONE.**

GAC Leadership Meeting with At-Large Advisory Committee (ALAC) Leadership

The GAC and ALAC leadership groups met informally and discussed a range of issues. There are common concerns with regard to new gTLD Public Interest Commitments.

ACTION POINT: The meeting to be noted in the Singapore Communiqué. **DONE.**

Meeting with Country Code Name Supporting Organisation (ccNSO)

The GAC met with the ccNSO. There was a brief discussion of the Framework of Interpretation Working Group¹, noting that the aim is to finalise the report at the London meeting. GAC will focus on issues of concern inter-sessionally. GAC and ccNSO will explore better ways of interaction on developing and ongoing issues, for example oversight of delegation and re-delegation in the IANA transition process. This applies both inter-sessionally and in preparing for joint meetings.

ACTION POINT: The outcome of these discussions is to be included in the Singapore Communiqué. **DONE.**

¹ <http://ccnso.icann.org/workinggroups/foiwg.htm>

Meeting with Root Server System Advisory Committee (RSSAC)

The GAC met with RSSAC and discussed a range of issues including the new RSSAC structure and working procedures; the importance of transparency of RSSAC proceedings, not just for GAC but for community confidence generally; the potential role of RSSAC in the IANA functions transition process; and the need for continuing engagement between GAC and RSSAC.

ACTION POINT: The outcome of these discussions is to be included in the Singapore Communiqué. **DONE.**

Briefing on Meeting Strategy Working Group (MSWG)

GAC members of the MSWG presented the Group's Recommendations for Public Comment v.2.5² to the GAC. These cover options for different scheduling and structure of ICANN meetings and more effective use of time by all stakeholders, including GAC.

ACTION POINT: The outcome of these discussions is to be included in the Singapore Communiqué. **DONE.**

Briefing on Cross Community Working Group (CCWG) on Internet Governance

A presentation by the GAC member of this WG was deferred to the London Meeting due to the extended engagement with the NTIA on the proposed IANA Transition. In the interim, the Lead (Trinidad and Tobago) circulated relevant documents including the CCWG submission to NETmundial. A Public Comment period was opened for this submission on April 8, 2014.

ACTION POINT: A presentation on the CCWG on IG's activities will be circulated intersessionally by the Lead.

GAC ADVICE ON NEW gTLDs

Safeguards: General; Category 1; Category 2

The GAC welcomed the most recent response from the Board to its advice originating in the Beijing Communiqué regarding safeguards for new gTLDs, including a new version of the scorecard responding to open items of GAC advice from Beijing, Durban and Buenos Aires; an implementation framework; and briefings on certain safeguards issues.

Members will seek clarification from ICANN on a range of implementation questions as follows:

- Safeguards Applicable to all New gTLDs – Operational effectiveness of ICANN 'periodic sampling' of WHOIS data (Safeguard 1). Obligations of Registry Operators to respond to identified security risks (Safeguard 3); and to complaints (Safeguard 5).

² <http://www.icann.org/en/groups/board/participation/mswg/recommendations-25feb14-en.pdf>

- Category 1 Safeguards – Validation and verification requirements to be applied by Registry Operators, including remedies to rectify fraudulent registrations.
- Category 2 Safeguards – Scrutiny of “closed” registration regimes, including means of redress.
- Public Interest Commitment Dispute Resolution Process (PICDRP) – Timeframes for considering complaints; standing for law enforcement and government agencies to raise concerns; remedial measures; and repeat offenders.

These matters were raised at the meeting with the Board, which undertook to respond when it received detailed questions in writing.

There was discussion on the use of auctions to resolve contested strings. GAC members welcomed ICANN's written response and staff briefing on this matter, but raised a number of continuing concerns including financial disadvantage for some potential bidders; and the need for community applications in future rounds to have access to clearer information before a final auction stage is reached.

ACTION POINT: GAC to seek clarification from the NGPC on implementation questions to be consolidated in an attachment to the communiqué. **DONE.**

Community Applications

GAC members reiterated previous concerns about a range of issues affecting applications that have demonstrable community support, including launch support and information. Community applications in the current round may have been unintentionally constrained. Some issues will need to be addressed in future rounds, and can be considered by the Working Group on Future rounds of New gTLDs.

ACTION POINT: GAC to advise ICANN to continue to protect the public interest and improve outcomes for communities, and to work with applicants in an open and effective manner in an effort to assist those communities. **DONE.**

Specific strings

GAC discussed specific strings as follows:

- (a) **.spa** (application number 1-1309-12524 and 1-1619-92115) – In response to a query from the NGPC, the GAC understands that the relevant parties in discussions about this string are the city of Spa and the applicants. The GAC has finalised its consideration of the .spa string, and welcomed a report from Belgium that an agreement has been reached between the city of Spa and one of the applicants.
- (b) **.amazon** – The GAC noted advice from the ICANN CEO that public consultation would occur on the independent expert's report commissioned by ICANN on .amazon. While acknowledging the need for due process, members were concerned about the length of time being taken for the Board to evaluate the GAC Objection Advice contained in the Durban

Communiqué. The GAC asked that the Board settle, as a high priority, its decision making according to Module 3.1 of the Applicant Guidebook.

- (c) **.ram** – Recalling the Durban Communiqué, GAC members agreed that the application for .ram is a matter of extreme sensitivity for the Government of India. There are potential problems regardless of the intentions of the applicant, given that religious terms are sensitive issues. Members noted that the Government of India has requested that the application not be proceeded with.
- (d) **.indians** – While noting that the circumstances are different to those for .ram, the GAC reiterated its advice in the Durban Communiqué that the Government of India has requested that the application for .indians not proceed.

ACTION POINTS: GAC to advise the Board via the Communiqué in accordance with the discussions and conclusions noted above. **DONE.**

Protection of Inter-Governmental Organisation (IGO) Names and Acronyms

The GAC noted the draft protection mechanisms for IGOs circulated before the meeting, and was briefed by the Chair on further discussions between the NGPC and IGOs held in Singapore. After further liaising with the IGOs, it was agreed that the GAC would note that it is awaiting the Board's response regarding implementation of its previous advice. GAC members noted the GNSO process on IGOs and the need to work more closely with the GNSO on such issues in future.

ACTION POINT: GAC to recall its previous advice on IGO names and acronyms in the Toronto, Beijing, Durban and Buenos Aires Communiqués, noting that it awaits the Board's response. **DONE.**

Protection of Red Cross/Red Crescent Names

The GAC confirmed its previous advice on protection of unauthorised of terms associated with the International Red Cross and Red Crescent Movement. Following consultation with those organisations, GAC members agreed that additional clarification was required with regard to which terms should be protected.

ACTION POINT: GAC to advise the Board that, for clarity, the protections recommended should also include:

- (a) The 189 National Red Cross and Red Crescent Societies, in English and the official languages of their respective states of origin.
- (b) The full names of the International Committee of the Red Cross and International Federation of the Red Cross and Red Crescent Societies in the six United Nations languages.

DONE.

.wine and .vin

During the course of the meeting GAC members became aware that the NGPC had, in Resolution 2014.03.22.NGO1 of 22 March 2014³, directed that the applications for .wine and .vin should proceed through the normal evaluation process.

Several members expressed concern about the process followed by the NGPC, including the failure to immediately make known its decision of 22 March, particularly given its history and sensitivity in the GAC; and a potential breach of the ICANN ByLaws.

There was a range of divergent views expressed by members on the substantive issue of whether additional safeguards are needed for these strings. These reflected previous discussions as recorded in the communiqué and minutes for the Buenos Aires meeting.

Discussion on this issue extended discussion of the communiqué into Thursday 27 March and required adjustment of the scheduled agenda.

ACTION POINT: GAC to advise the Board via the Communiqué: to reconsider the matter before delegating these strings; that GAC needs to consider the process issues more fully; and that concerned GAC members consider that the applicants and interested parties should be encouraged to continue their negotiations. **DONE.**

Singular and Plural Versions of the Same String

GAC was briefed by ICANN on the string similarity review process, noting that future improvements had been flagged to ensure consistent rulings by panels dealing with the same strings. However, members reiterated previous concerns that allowing singular and plural versions of the same strings could lead to confusion and consumer harm.

ACTION POINT: GAC to advise the Board of its continuing concerns on this issue. **DONE.**

WHOIS

GAC briefly discussed the work on WHOIS being undertaken by the Expert Working Group on New gTLD Directory Services; and separate but related work on privacy and proxy services in the GNSO. Several GAC members expressed some concerns about ongoing privacy aspects of this work. GAC will work inter-sessionally to identify main points of interest to the GAC and consider appropriate action.

ACTION POINT: The outcome of these discussions is to be included in the Singapore Communiqué. **DONE.**

DATA RETENTION AND DATA PROVISION WAIVERS

Several GAC members noted that waivers sought under the data retention requirements of the Registrar Accreditation Agreement (RAA) due to conflict with

³ <https://www.icann.org/en/groups/board/documents/resolutions-new-gtld-22mar14-en.htm>

national privacy laws were taking some time to be processed. They asked that sanctions not be applied while applications are pending; and noted that there may need to be a waiver requirement for data provision requirements in the RAA.

In discussions between GAC and the Board, the Board asked for GAC assistance in balancing the sometimes competing demands of law enforcement and privacy, and in obtaining data on what impact requirements such as data retention are having on criminal activity and consumer protection. The Board also noted that implementation issues were occurring due to inconsistent application of the EU privacy directive across countries.

ACTION POINT: The outcome of the above discussions is to be included in the Communiqué. **DONE.**

TRACKING OF KEY ISSUES

GAC discussed the wide range of activities currently occurring across ICANN and the need to ensure that issues are tracked in a more concise and structured way. This would help GAC in providing timely and comprehensive advice, and also ensure the value of such activities is captured and made best use of more widely. One current example is the multiple streams of activity in regard to the Registrar Accreditation Agreement, data protection and retention, WHOIS and privacy and proxy services. This is not a problem unique to GAC, but GAC wishes to work more closely with ICANN and all interested parties in developing comprehensive overviews of complex issues prior to meetings, building on improvements in GAC operational capacity.

ACTION POINT: GAC to advise the Board of the need for comprehensive overviews of complex issues, and of GAC's willingness to work with interested parties on delivering this. **DONE.**

BRIEFINGS ON COMPLIANCE

GAC noted its continuing interest in implementation of ICANN safeguards for registry operators, registrars and registrants. Members considered that ICANN staff briefings on compliance with these safeguards, and ICANN's contract compliance function more broadly, would be helpful for future GAC meetings.

ACTION POINT: GAC to request that the Board facilitate staff briefings for each meeting on compliance with ICANN safeguards for registry operators, registrars and registrants. **DONE.**

TRANSFER OF IANA FUNCTIONS

The GAC received a briefing from Assistant Secretary Larry Strickling of the National Telecommunications and Information Administration (NTIA) regarding the announcement of 14 March 2014⁴ that the United States Government would transition key Internet domain name functions to the global multistakeholder community.

⁴ <http://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions>

In subsequent discussion with Mr Strickland, several GAC members indicated that the announcement is a positive step towards a more comprehensive multistakeholder model of Internet governance. GAC noted the four principles for transition included in the announcement:

- Support and enhance the multistakeholder model.
- Maintain the security, stability and resiliency of the Internet DNS.
- Meet the needs and expectations of the global customers and partners of the IANA services.
- Maintain the openness of the Internet.

Several members stressed the importance of maintaining security, stability and resiliency.

There was general support for GAC involvement in the transition process being convened by ICANN. However, several members noted that better mechanisms for participation by developing countries must be found; that governments should continue to have a clear role in relevant ICANN processes, both through the GAC and also ensuring a voice for non-GAC members; and that other international fora will continue to play a part in the global evolution of Internet governance. These issues, and the implications of the role of the GAC as an advisory committee rather than a substantive policy making body, were later raised by several members in the GAC's meeting with the Board, and in a briefing from the ICANN CEO.

ACTION POINT: The outcome of these discussions is to be included in the Singapore Communiqué. **DONE.**

NETmundial

The GAC was briefed by Ambassador Benedicto Fonseca of Brazil on the NETmundial meeting to be held in Sao Paulo on 23-24 April 2014.⁵

The meeting is a multi-stakeholder one. It will focus on two broad areas:

- Principles for Internet governance.
- A roadmap for future evolution of Internet governance.

A meeting of government representatives will be held on the afternoon of 22 April to discuss a draft outcomes document for consideration in the plenary. The draft will draw on submissions made to date. Financial assistance will be available to support participation from the widest range of stakeholders, including governments. Brazil will provide more information on both of these matters through diplomatic channels.

ACTION POINT: GAC to thank Ambassador Fonseca for his briefing. **DONE.** Individual GAC members to initiate or continue involvement in the NETmundial process.

⁵ www.netmundial.br

LONDON HIGH LEVEL MEETING

The GAC was briefed by Ms Sarah Taylor of the UK Department for Culture, Media and Sport on the High Level Meeting to be held in London on 23 June 2014 in conjunction with the ICANN and GAC meetings. There will be two themes:

- ICANN's role in the evolving Internet ecosystem
- Enhancing the role of governments in the ICANN model and the future role of the GAC.

GAC members welcomed the meeting, including as an opportunity to build on outcomes from other processes including NETmundial. However, several members noted that a half-day meeting may be difficult to justify for some Ministers, and suggested that staging of other, linked events be considered as well.

In discussion with Board members on accountability and transparency issues it was suggested that additional funding for travel support specifically for the High Level Meeting be made available to ensure representation from the widest range of countries and governments, including those not members of the GAC. Japan asked that interpretation in Japanese be made available, which the Japanese Government is willing to fund.

A further GAC session on the High Level Meeting scheduled for the morning of Thursday 27 March had to be cancelled due to the agenda rescheduling noted under .wine and .vin, above. GAC suggestions for specific agenda items will be sought inter-sessionally.

ACTION POINT: The outcome of these discussions to be included in the Singapore Communiqué, including a request for additional travel funding in line with existing GAC travel support guidelines. **DONE.** Secretariat to contact the GAC UK delegate to initiate a process for seeking agenda topics and clarify logistical issues. **DONE.**

ACCOUNTABILITY AND TRANSPARENCY

The GAC discussed how it might work to progress those recommendations of the second Accountability and Transparency Review Team (ATRT2)⁶ that are directly relevant to the GAC.

A revised charter for the Board-GAC Recommendation Implementation Working Group (BGRI) was discussed and agreed – see Attachment 3. Specific responsibilities may be subject to further refinement inter-sessionally.

With regard to recommendations 6.8 and 6.9 of the ATRT2 report, dealing with ICANN engagement with governments and inter-governmental organisations, GAC members considered this to be a priority area and agreed to establish a working group to address these issues. Staff from the ICANN Global Stakeholder Engagement Team welcomed the opportunity to work collaboratively with GAC in this area. Further details are contained under "GAC Working Groups".

⁶ <https://www.icann.org/en/news/public-comment/atrt2-recommendations-09jan14-en.htm>

ACTION POINT: GAC to advise the Board on its agreement to the revised BGRI Charter; and the establishment of a new working group on engagement with governments and IGOs. GAC to work inter-sessionally to further refine responsibilities across the BGRI process, GAC working groups and internal GAC administration.
DONE.

GAC WORKING GROUPS

Future Rounds of New gTLDs

The Working Group reported that work is progressing through its three sub-groups on community applications (Leads: Switzerland and UK); developing countries and applicant support (Lead: Trinidad and Tobago); and geographic names (Lead: Argentina).

The GAC discussed a report from Argentina on geographic names [\[Slides\]](#) noting pros and cons of lists and name repositories; the importance of a fair and transparent dispute resolution process; and the need to take into account the 2007 GAC Principles Regarding New gTLDs. A planned session to brief the community and seek comment on this work had to be cancelled due to the agenda rescheduling noted under .wine and .vin, above.

GAC Working Methods

Terms of reference were agreed for this group – see Attachment 3. The group will work with the BGRI on relevant issues, and will identify a list of deliverable outcomes for adoption at the London meeting. A document was circulated by Spain (as convener of the working group) as the next step in developing outcomes for London – see Attachment 4.

Engagement with Governments and IGOs

A new working group was established (Lead: Lebanon) to develop guidelines for engagement between ICANN and Governments and IGOs. Terms of reference are at Attachment 3. The group will work closely with the ICANN Global Engagement Strategy team.

ATTACHMENT 1

LIST OF GAC ATTENDEES: SINGAPORE 22-27 MARCH 2014

Members	
Argentina	Macedonia, The Former Yugoslav Republic of
African Union Commission	Malaysia
Australia	Mali
Austria	Marshall Islands
Belgium	Morocco
Brazil	New Zealand
Burkina Faso	Netherlands
Cameroon	Nigeria
Canada	Norway
China	Nauru
Chinese Taipei	Niue
Denmark	Paraguay
Democratic Republic of Congo	Peru
European Commission	Portugal
Egypt	Romania
Estonia	Russian Federation
France	Sao Tome and Principe
Finland	Senegal
Gabon	Singapore
Germany	South Africa
Greece	Spain
Grenada	Swaziland
Holy See –Vatican City State	Sweden
Hungary	Switzerland
Indonesia	Tanzania
Iran	Trinidad and Tobago
Italy	Turkey
Japan	United States
Jamaica	United Kingdom
Kenya	Vanuatu
Korea	Viet Nam
Lebanon	
Luxembourg	
Observers	
Organisation Internationale de la Francophonie (OIF)	Commonwealth Telecommunications Organisation (CTO)
The Organization for Islamic Cooperation (OIC)	European Broadcasting Union
New Partnership for Africa's Development (NEPAD)	Organization of American States (OAS)
Organisation for Economic Cooperation and Development (OECD)	World Meteorological Organisation
Caribbean Telecommunications Union (CTU)	Council of Europe

ATTACHMENT 2

GAC SINGAPORE COMMUNIQUÉ



Governmental Advisory Committee

Singapore, 27 March

2014

GAC Communiqué - Singapore⁷

I. INTRODUCTION

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Singapore during the week of 22 March 2014. Sixty-one (61) GAC Members attended the meetings and ten (10) Observers. The GAC expresses warm thanks to the local hosts IDA and SGNIC for their support.

II. Inter-constituencies Activities

1. GAC-Generic Names Supporting Organisation (GNSO) Consultation Group

The GAC met with GNSO members of the GAC-GNSO Consultation Group and agreed a charter for the group. The Group will consider processes for smooth and timely information exchange; early engagement of GAC in GNSO PDP work; resolving early stage conflicts; and accommodating the different working methods of the two organisations.

2. Discussion of Brand Registry Issues

The GAC discussed the Brand Registry Group proposal for a streamlined process under an addendum to the Registry Agreement for the approval of country names and 2-letter and character codes at the second level. While the GAC has no major concerns about brand owners seeking approval for such names, this approval should be done directly with the countries concerned rather than through a GAC-level operational process. Individual GAC members can assist with proposals relevant to their particular country if requested. GAC suggests that consideration be given to establishing a register of countries that do not require individual requests to be made.

⁷ To access previous GAC advice, whether on the same or other topics, past GAC communiqués are available at: <https://gacweb.icann.org/display/gacweb/GAC+Recent+Meetings> and older GAC communiqués are available at: <https://gacweb.icann.org/display/gacweb/GAC+Meetings+Archive>.

3. GAC Leadership Meeting with At-Large Advisory Committee (ALAC) Leadership

The GAC and ALAC leadership groups met and discussed a range of issues. There are common concerns with regard to new gTLD Public Interest Commitments (as noted for the GAC in this communiqué).

4. Meeting with Country Code Name Supporting Organisation (ccNSO)

The GAC met with the ccNSO and noted progress by the Framework of Interpretation Working Group, with further dialogue to be progressed inter-sessionally. GAC and ccNSO will explore possible approaches to more effective interaction across all relevant issues.

5. Meeting with Root Server System Advisory Committee (RSSAC)

The GAC met with RSSAC and discussed a range of issues including the RSSAC's new structure; transparency of proceedings; and potential role in the IANA functions transition process.

6. Briefing on Meeting Strategy Working Group (MSWG)

GAC Members of the MSWG presented the Group's report to the GAC. The MSWG is a cross community Working Group with the mandate to gather information, exchange ideas and propose changes to future ICANN meetings at both a strategic and operational level.

III. Internal Matters

- 1. New Members** – The GAC welcomes Croatia, Grenada, and the Solomon Islands as Members.
- 2. Future Rounds of New gTLDs** – The working group on issues for future rounds of new gTLDs reported on its progress. The ICANN community has been invited to an information session to be held during the ICANN meeting on possible future policy approaches to geographic names.
- 3. Working Methods** – Terms of reference were agreed for the working group on GAC working methods. Specific deliverables will be identified for the London meeting.
- 4.** The GAC paid homage to the late Pankaj Agrawala who served as the GAC vice chair during the period of 2005-2007.

IV. GAC Advice to the Board⁸

1. Internet Assigned Numbers Authority (IANA) Functions: US Government Announcement

The GAC received a briefing from Assistant Secretary Larry Strickling of the National Telecommunications and Information Administration regarding the announcement of 14 March 2014 that the United States Government would transition key Internet domain name functions to the global multistakeholder community. This is a timely step in the process of making Internet governance truly global, and marks major progress in the development of a multi-stakeholder model.

The GAC also notes that a number of conditions were stated in the announcement in order that this transition be effected.⁹

The GAC welcomes that ICANN will convene global stakeholders to develop a proposal for this transition and takes note of the preliminary timeline proposed by ICANN

(<http://www.icann.org/en/about/agreements/iana/functions-transfer-process-14mar14-en.pdf>). The GAC is willing to participate in, and contribute to, this process and underlines that the consultations and discussions should reach out to all parties, including those governments that are not presently members of the GAC and also not part of the ICANN multistakeholder community.

The GAC also recommends that ICANN make full use of existing events and fora to ensure a broader engagement in these important discussions, including the forthcoming NETmundial meeting (Brazil, 23-24 April 2014), and the Internet Governance Forum (Turkey, 2-5 September 2014).

2. Safeguard Advice Applicable to all new gTLDs and Category 1 (consumer protection, sensitive strings and regulated markets) and Category 2 (restricted registration policies) Strings

The GAC welcomed the response of the Board to its advice in the Beijing Communiqué regarding safeguards for new gTLDs.

a. The GAC requests

- i. Clarification from the New gTLD Program Committee (NGPC) on a number of implementation issues. These relate to the implications of changes in WHOIS verification

⁸ 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>

⁹ NTIA has communicated to ICANN that the transition proposal must have broad community support and address the following four principles: Support and enhance the multistakeholder model; Maintain the security, stability and resiliency of the Internet DNS; Meet the needs and expectations of the global customers and partners of the IANA services; and Maintain the openness of the Internet.

and checks for the accuracy of WHOIS generally and for law enforcement and end users; security checks to detect risks of harm (eg phishing, malware, botnets etc); complaint mechanisms; verification and validation of Category 1 registrants' credentials and the lack of binding nature of the public interest commitments; operation of the Public Interest Commitment Dispute Resolution Procedure; and restricted registration policies (Category 2). These queries are set out in more detail at Attachment 1.

3. Community Applications

The GAC reiterates its advice from the Beijing and Durban Communiqués regarding preferential treatment for all applications which have demonstrable community support.

1. The GAC advises

- a. ICANN to continue to protect the public interest and improve outcomes for communities, and to work with the applicants in an open and transparent manner in an effort to assist those communities. The GAC further notes that a range of issues relating to community applications will need to be dealt with in future rounds.

4. Specific Strings

a. .spa

Regarding the applications for .spa, the GAC understands that the relevant parties in these discussions are the city of Spa and the applicants. The GAC has finalised its consideration of the .spa string and welcomes the report that an agreement has been reached between the city of Spa and one of the applicants.

b. .amazon

The GAC expresses its concerns with the time the Board is taking in evaluating the GAC Objection Advice on the application of the domain name .amazon, as stated in the GAC communiqué, approved in Durban, last July. Therefore the GAC urges the ICANN Board to settle as a high priority its decision according to Module 3.1 part I of the Applicant Guidebook.

c. .ram and .indians

Further to its Durban Communiqué, **the GAC advises the ICANN Board that:**

- a. The GAC recognizes that religious terms are sensitive issues. The application for .ram is a matter of extreme sensitivity for the

Government of India on political and religious considerations. The GAC notes that the Government of India has requested that the application not be proceeded with; and

- b. as noted in the Durban communiqué, the Government of India has requested that the application for .indians not proceed.

d. .wine and .vin

The GAC notes the NGPC Resolution 2014.03.22.NG01 concerning .wine and .vin as well as its rationale. In the final deliberation of the Board there appears to be at least one process violation and procedural error, including in relation to ByLaws Article XI-A, Section 1 subsection 6 which states:

“6. Opportunity to Comment. The Governmental Advisory Committee, in addition to the Supporting Organizations and other Advisory Committees, shall have an opportunity to comment upon any external advice received prior to any decision by the Board.”

The GAC therefore advises:

1. That the Board reconsider the matter before delegating these strings-

The GAC needs to consider the above elements more fully. In the meantime concerned GAC members believe the applicants and interested parties should be encouraged to continue their negotiations with a view to reach an agreement on the matter.

5. Singular and Plural Versions of the Same String

The GAC reiterates the Beijing advice that allowing singular and plural versions of the same strings could lead to consumer harm. Permitting this practice risks confusing internet users and could making users more vulnerable to deceptive practices that exploit this confusion.

6. WHOIS

The GAC notes the work being accomplished by the Expert Working Group on New gTLD Directory Services (WHOIS). The GAC will work inter-sessionally on privacy issues up until the ICANN 50th London meeting.

7. Data retention and Data Provision Waivers

The GAC welcomes the explanation provided to the GAC by ICANN in relation to the state of play of the granting of the Data Retention Specification waiver foreseen in the Registrar Accreditation Agreement, in compliance with national laws. Some members asked ICANN not to take legal action against those Registrars in order to fulfill their data retention requirements pending a decision on these waivers. They

further recalled that waivers might be necessary for data provision requirements accordingly in the Registry Agreement.

8. Protection of Inter-Governmental Organisation (IGO) Names and Acronyms

The GAC recalls its previous public policy advice from the Toronto, Beijing, Durban and Buenos Aires Communiqués regarding protection for IGO names and acronyms at the top and second levels and awaits the Board's response regarding implementation of the GAC advice.

9. Protection of Red Cross/Red Crescent Names

Referring to the previous advice that the GAC gave to the board to permanently protect from unauthorised use the terms associated with the International Red Cross and Red Crescent Movement – terms that are protected in international legal instruments and, to a large extent, in legislation in countries throughout the world.

I. The GAC advises that, for clarity, this should also include:

- a. the 189 National Red Cross and Red Crescent Societies, in English and the official languages of their respective states of origin.
- b. The full names of the International Committee of the Red Cross and International Federation of the Red Cross and Red Crescent Societies in the six (6) United Nations Languages.

10. Accountability and Transparency

The GAC agreed on a revised charter for continuation of the Board-GAC Recommendation Implementation Review Team (BGRI), with responsibility for progressing relevant recommendations from the final report of the Accountability and Transparency Review Team (ATRT2). Some areas of the report are the subject of ongoing GAC working groups and some are GAC internal matters, which will feed into the overall ATRT2 process.

The GAC has established a working group to develop guidelines on ICANN-government and IGO engagement, and will work with the ICANN Global Stakeholder Engagement team, and within the BGRI process, to progress relevant recommendations from the ATRT2 report.

The GAC acknowledges the funding ICANN currently makes available to GAC members from developing countries to support their attendance at ICANN and GAC meetings.

11. Tracking of Key Issues

I. The GAC requests:

- a. that the Board consider ways in which ICANN and the GAC can work more closely in ensuring that key issues are tracked in a more concise and structured way, so that the GAC is able to

provide timely and comprehensive advice. For example, the multiple streams of activity being dealt with with regard to Registrar Accreditation Agreement, data protection, and data retention issues, WHOIS (e.g. Expert Working Group, privacy and proxy services, etcetera). The GAC would benefit from some form of comprehensive overview by ICANN of such related issues prior to the meetings.

12. Briefings on Compliance

I. The GAC requests:

- a. that the Board facilitate ICANN staff briefings for each meeting on compliance with ICANN safeguards for registry operators, registrars and registrants.

13. NETmundial Meeting

The GAC expresses its thanks for a briefing provided by Ambassador Benedicto Fonseca of Brazil on the NETmundial meeting to be held in Sao Paulo on 23-24 April 2014.

14. High Level Meeting

The GAC received a briefing from the United Kingdom and discussed arrangements for the high level meeting to be held in London on 23 June 2014 in conjunction with the ICANN and GAC meetings. The meeting will focus on ICANN's role in the evolving internet ecosystem; and enhancing the role of governments in the ICANN model and the future role of the GAC.

I. The GAC requests:

- a. That additional funding for travel be provided to ensure that the high level meeting scheduled for London has representation from the widest range of countries, including Ministers and their staff from developing countries, in line with existing GAC travel support guidelines.

The GAC warmly thanks the all SOs/ACs who jointly met with the GAC as well as all those among the ICANN community who have contributed to the dialogue with the GAC in Singapore

V. Next Meeting

The GAC will meet during the period of the 50th ICANN meeting in London, England.

Annex I

GAC Advice Implementation Questions for Singapore, March 2014

The GAC is pleased to share an assessment of several aspects of the NGPC's proposed approach to: the Overarching Safeguards applicable to all new gTLDs; the implementation of Category 1 and Category 2 Safeguards; and the Public Interest Commitment Dispute Resolution Process (PICDRP). Our assessment has resulted in several implementation questions set forth below.

- Will ICANN provide periodic updates to the GAC regarding the activities carried out by the Compliance Department on the effective implementation of the Safeguards (all categories)?

1. Safeguards Applicable to all New gTLDs:

- With regard to **Safeguard 1**, related to WHOIS verification and checks, the NGPC has shifted responsibility from individual Registry Operators (who have the direct relationships with Registrars) to ICANN to perform “periodic sampling” of WHOIS data across registries in an effort to identify potentially inaccurate records.
 - Can the NGPC clarify the advantages and/or disadvantages of having ICANN perform the WHOIS checks/audits versus the Registry Operators?
 - Does the NGPC believe ICANN has sufficient resources in place to conduct these audits, or will additional resources be necessary to conduct WHOIS checks across all Registry Operators?
 - Can the NGPC clarify the meaning of “periodic sampling” (e.g. how large will the sampling be, using what criteria, how often, etc.)? With a periodic sampling approach, will it be possible to identify/Registrars with the highest percentages of deliberately false, inaccurate or incomplete WHOIS records in previous checks?
 - Will ICANN circulate/make publicly available to the community, detailed statistical reports of how inaccurate WHOIS records were identified and resolved?
 - What steps does the NGPC think are needed to ensure inaccurate or incomplete WHOIS records are addressed? Will Registry Operators take steps to notify Registrars of inaccurate or incomplete WHOIS records? If so, will this notification trigger an obligation from the Registrar to solicit accurate and complete information from the Registrant?
- **Safeguard 3** pertains to Security Checks undertaken by Registry Operators to periodically analyze whether domains in its gTLD are being used for threats to security, such as pharming, phishing, malware and botnets. While

the NGPC has incorporated aspects of Safeguard 3 into the Public Interest Commitment Specification 11, it also calls on ICANN to seek “community participation” to develop a framework for Registry Operators to respond to identified security risks that pose an actual risk of harm. Pending the development of such a framework, it is not clear whether Registry Operators are obliged to notify a Registrar to take immediate actions in response to such security threats (including suspending the domain name in appropriate situations).

- How does ICANN define “immediate action;” what precise timeframe constitutes “immediate action”?
 - How does ICANN define “security risk”?
 - How does ICANN define “harm”?
 - What is the status of the NGPC’s plan to develop a framework for Registry Operators to respond to identified security risks that pose an actual risk of harm?
 - In the interim before an agreed framework is developed, how does ICANN intend to address such security threats?
 - Will Registry Operators be expected or obliged to notify a Registrar to take immediate action in response to a security threat that poses an actual risk of harm?
- **Safeguard 5** addresses Complaint Mechanisms, to ensure that Registry Operators provide a means by which complaints can be submitted related to: WHOIS data inaccuracy, trademark or copyright infringement, counterfeiting, fraudulent or deceptive practices, the use of malware, botnets, phishing, piracy, or other unlawful activities. The NGPC has incorporated this Safeguard in the Base Registry Agreement (e.g. Section 2.8, Specification 6, section 4.1). It is not clear, however, whether Registry Operators are required to respond to complaints from sources other than governments, law enforcement or other quasi-governmental entities.
 - What mechanisms will be used by Registry Operators for taking complaints from sources other than government entities (e.g. victims)?
 - How will inaccurate WHOIS information be corrected? Will Registry Operators be responsible for ensuring that Registrars require Registrants to correct inaccurate WHOIS information?

- What constitutes reasonable steps for the Registry to investigate and respond to any reports from law enforcement, governmental and quasi-governmental bodies?

2. Category 1 and Category 2 Safeguards:

With regard to strings falling under **Category 1** advice, we are seeking further clarity from the NGPC on the following:

- Is it the NGPC's intention to create a separate base Registry Agreement for those Registry Operators whose strings fall under Category 1? Or does the NGPC expect such Registry Operators to incorporate the Category 1 PIC Spec into their specific Registry Agreement?
- In amending the GAC's advice that Registry Operators verify and validate a domain name registrant's credentials to a requirement that such registrants need only "represent" that they have such credentials, has the NGPC considered other measures to prevent consumer fraud and deception that could occur through false representations?
- How will ICANN prevent Category 1 registrants (i.e., those associated with market sectors that have clear and/or regulated entry requirements) that lack the proper credentials/licenses from doing business with the public under the guise of the Category 1 strings?
- How will ICANN ensure that Registrants report changes regarding the validity of their licenses/credentials?
- Has the NGPC considered the greater risks of fraud and deception that will occur as a result of failing to implement the GAC's:
 - the validation and verification requirements;
 - the requirement to consult with relevant authorities in case of doubt about the authenticity of credentials; and
 - the requirement to conduct periodic post-registration checks to ensure that Registrants' continue to possess valid credentials and generally conduct their activities in the interests of the consumers they serve
- Can the NGPC confirm whether the PIC Dispute Resolution Process (PICDRP) is the sole remedy available to regulators or industry self-regulators to rectify fraudulent registrations in strings representing regulated sectors, and if so, will the NGPC either reconsider its

proposed approach or develop a faster remedy to mitigate harm to consumers?

With regard to **Category 2** safeguards, we are seeking further clarity on the following:

- For those Registry Operators affirmatively seeking exclusive registration policies, how does the NGPC intend to assess such Operators' assertions of serving the public interest?
- Has the NGPC considered that transparency alone might not only be insufficient to deter unduly preferential or discriminatory registration policies, but it will be equally difficult for anyone seeking redress to meet the standard of harm required in the PICDRP? In other words, if Specification 11 Section C is limited to a transparency commitment, then the harm stemming from discriminatory registration policies that are publicized cannot be amended or corrected through a PICDRP.
- Will ICANN monitor Change Requests made by those applicants that claim they are moving from a closed to an open environment?

3. **Public Interest Commitment Dispute Resolution Process (PICDRP):**

- In the case of clearly deficient PICs, will ICANN formally require applicants to restate their PICs or address their inconsistencies?
 - Will ICANN turn PICs into real binding commitments not subject to unilateral modification or revocation by the applicant?
- A. **Timeframe for consideration of a PIC Spec complaint is unclear.** The PICDRP does not specifically detail the timeframes in which ICANN will review and enforce the results of PICDRP disputes. Based on time calculations derived from PICDRP document, it may take up to **105** days for a dispute resolution, in addition to the undefined time periods for ICANN to conduct preliminary review, time for ICANN to investigate itself or form a standing panel; and time for ICANN to impose remedial measure:

In addition, there are questions related to specific provisions in the PICDRP, including:

- **Preliminary Review** (Section B.1.3): How long will ICANN take to complete preliminary review? No timetable has been provided. In certain cases, *.e.g.*, botnets, malware, etc., time is of the essence.
- **Standing Panel** (Section B.3.3; B.4): When will ICANN make determination of investigating the report itself or handing it to the Standing Panel? What criteria will ICANN use to make this

determination? Who will be on the Standing Panel? How long will ICANN take to choose members of the Standing Panel? Will it be ICANN staff, private industry, and government? How long will it take to institute Standing Panel?

B. Standing for Law Enforcement and Appropriate Government Agencies to Report:

The PICDRP requires reporters of PIC violations to state how the reporters “have been harmed.” This requirement seems to require the reporter itself to have suffered harm. Although law enforcement is not harmed, law enforcement is acting on behalf of the public, who have been harmed.

- Will government entities or law enforcement have standing to raise concerns re: non-compliance with the Public Interest Commitments?
- If government entities and law enforcement do have such standing to raise public policy related concerns, would this be cost-free?
- How would law enforcement or other government entities (who act to protect the public) raise violations of the Public Interest Commitments?

C. Clerical Mistakes by Reporter:

- Does the Reporter have a chance to correct clerical or incomplete data before it is dismissed by ICANN (B.1.1.2)?

D. ICANN vs. PICDRP?

- What will determine whether a dispute regarding the Public Interest Commitments is enforced via ICANN directly versus the PICDRP? (See B.2.3.3)

E. No Final Resolution:

- There appears to be a critical loophole in the PICDRP, in that there may be no resolution to the report of non-compliance. If the Registry Operator disagrees with the proposed remedial measure, they can invoke yet another alternate dispute resolution process (see B.4.4.6), all of which would occur after potentially more than 105 days has elapsed.

F. Remedial Measures:

- In the event that a Registry Operator fails to resolve its non-compliance, what would be the remedial measures that ICANN will consider and how long will ICANN take to determine the appropriate remedial measure? Under what circumstances would ICANN elect not impose a serious remedial measure? (B.4.4.5)

G. Repeat Offenders:

- ICANN does not specify what sanctions (e.g. financial or otherwise) will be imposed on repeat offenders. (See B.5.5.4)

4. Auctions

Is ICANN able to provide more detailed information confirming that rules for auctions are consistent with its Bylaws, its not-for profit status, the objectives of the new gTLD Program and the Applicant Guidebook to promote competition, diversity, innovation and consumer choice? section

ATTACHMENT 3

GAC WORKING GROUPS, JOINT WORKING GROUPS AND ASSOCIATED BODIES: TERMS OF REFERENCE/CHARTER

Working Group on Engagement with Governments and Intergovernmental Organisations

Examine and report, in consultation with the ICANN Global Stakeholder Engagement (GSE) Group, on possible measures and guidelines to implement ATRT2 Recommendations 6.8 and 6.9.

These should include, but not be limited to:

- Identifying the respective areas of operation of Governmental Advisory Committee (GAC) and the Global Stakeholder Engagement (GSE) Group with regard to engagement with national governments and inter-governmental organizations.
- Identifying existing and potential synergies between the respective areas of operation and practical measures to make best use of such synergies, for example common databases and improved working level communications.
- Developing guidelines for endorsement by the Board that give effect to Recommendations 6.8 and 6.9.

Working Group on Future gTLDs

The working group will examine and report on the following issues in the context of future rounds of applications for new gTLDs:

- The protection of geographic names (for example, to consider whether additional geographic names protections are needed in future rounds);
- Issues relating to applications by communities and associated objection procedures (for example, to consider whether the community priority application and objection processes should be improved for future rounds); and
- Applicant support and the involvement of developing economies (for example, to consider whether ICANN can do more to assist some applicants in future rounds).

Working Group on GAC Working Methods

The Working Group should consider and make recommendations to the GAC on ways to improve the working methods of the GAC, including those that enhance transparency, efficiency, effectiveness and the timely provision of advice to ICANN

on public policy aspects of ICANN's activities. It should ensure that its work delivers clear, agreed outcomes within clear, agreed timeframes.

Board-GAC Recommendations Implementation Working Group (BGRI)

Preamble

The Second Accountability and Transparency Review Team draft report recommendations include a strong suggestion that the Board-GAC Recommendations Implementation Working Group (BGRI-WG), established to facilitate implementation of recommendations from the first ATRT report, should continue its work in order to implement the new recommendations in a timely fashion. This [draft] Charter is intended to outline the scope of the work and working methods for the BGRI-WG.

Objective of the BGRI

The objective of the BGRI-WG is to facilitate the timely implementation of the recommendations of the second ATRT Report that pertain to the ICANN GAC through cooperation between the GAC and ICANN Board.

Areas of work

The following Recommendations of the ATRT2 Report will be the areas of work for the members of the Working Group:

- Recommendation 6.4 (Notification & requesting GAC advice)
- Recommendation 6.5 (Bylaw changes)
- Recommendation 6.7 (Highest level support for further Senior Officials' meetings)
- Recommendation 6.8 (Deepening engagement with governments, and ensuring staff/GAC activities are mutually reinforcing)
- Recommendation 10.2 (Earlier GAC engagement in ICANN policy development processes)

The BGRI-WG shall also identify what kinds of support (e.g. technical assistance, organizational assistance, financial assistance) are appropriate to facilitate implementation of these recommendations.

Membership and Meetings

The GAC and the ICANN Board shall each select their respective members of the BGRI-WG. Membership shall be open to volunteers from the GAC and the Board. The GAC and the ICANN Board shall each appoint a co-chair of the BGRI-WG whose task shall be to convene meetings, propose agendas, and steer the work of the BGRI-WG as appropriate. The BGRI-WG shall conduct its work through face-to-face meetings and through on-line collaboration making use of the BGRI-WG mailing list.

GAC-GNSO Consultation Group on GAC Early Engagement in Policy Development Processes: Charter

Problem Statement

As a practical matter, the development of policy proposals by the GNSO and the development of GAC public policy advice have followed separate processes, occasionally yielding different (and potentially inconsistent) results for the ICANN Board to consider. The GAC is structured under the ICANN Bylaws to provide advice to the Board. A timing difficulty arises because the GNSO PDP reaches the Board at the final stage of the GNSO policy-deliberation process and it may only be at that time that the GAC turns its attention to the GNSO's work. Only then does the Board request GAC advice, which is an example of a process that appears to need review and improvement.

The amount of time available for the GAC to provide advice varies depending on the issue. The period of review and deliberations by the GAC often necessarily requires public policy consultations within the over 130 national administrations currently participating in the GAC. Furthermore, the GAC's process for taking consensus-based decisions takes place during its three face to face meetings a year, consults primarily with the ICANN Board, and often during the concluding stages of a GNSO policy development process.

These processes significantly extend the period for policy approval and implementation and it is quite possible for the GAC ultimately to take a different position from the GNSO and advise the Board against implementing the results of often long and detailed policy-making processes. Resolving those conflicting positions further delays the process and may be seen as undermining past efforts that have been ongoing for quite some time.

This issue has been identified by the GAC-Board Joint Working Group (JWG), Accountability and Transparency Review Team 1 (ATRT), Board-GAC Recommendation Implementation Working Group (BGRI-WG) and most recently is within the draft recommendations of ATRT2.

In all cases the recommendations were to Engage the GAC Early within the GNSO PDP. Thus, the need is agreed, the means is not yet agreed, hence the implementation is delayed.

How does not solving this problem get in the way of achieving ICANN's objectives?

Not solving the problem means that we/ICANN have not addressed an ATRT1 Recommendation, which we/ICANN have endorsed as having merit.

The larger or longer term implication is that ICANN's PDPs fail to take government public policy concerns into sufficient account at an early stage so they can be incorporated into the proposals that are forwarded to the Board for approval.

Specifically, not solving the problem implies:

- Delay in approving GNSO proposals

- trying to resolve conflicting views within a pressing timeframe,
- getting into Board-GAC consultation as mandated by ICANN bylaws should the Board decide not to follow the GAC advice, ...etc
- The Board is put at a difficult situation when GAC advice is not in agreement with GNSO's proposal,
 - trying to find some common ground,
 - following GNSO proposal, which implies ignoring GAC advice and mandates going through a Board-GAC consultation period, and meanwhile delaying further progress
 - following GAC advice, which implies ignoring time, effort and proposal put forward by the GNSO
- Not utilizing the multi-stakeholder nature of the organization and benefiting from cross-constituencies discussions
- Not fully implementing ATRT recommendations

Value to be gained

ICANN's PDPs would benefit from being more cohesive and/or coherent, versus the current situation where the GAC provides advice directly to the ICANN Board, as per the Bylaws. The Board is then put in a situation of choosing between advice from the GAC and the GNSO.

Specifically, solving this problem would result in:

- More efficient PDPs
- Easier decisions at the Board level, as this gives better chance and more probability for the GAC and the GNSO to find an agreed way forward
- Benefiting from the multi-stakeholder nature of the organization as early as possible and directly between the GNSO and the GAC rather than through the Board
- Implementing ATRT recommendations, also widely supported by the community

Chronology

In part, the situation is due to the Bylaws and in part due to the very different working methods of the GAC and the GNSO

We're now at a point where there is broader awareness that some GNSO proposals that have been approved by the Board contained concepts that may have been inconsistent with existing laws, treaties, etc. A good example of this is the Public Order and Morality proposals contained in the original GNSO new gTLD recommendations, which were unworkable.

Stakeholders who are impacted by this issue and proposals resulting from this consultation group

- Employees

GAC Secretariat and ICANN Policy staff (Note: GAC and GNSO secretariat and policy-support functions are structured differently, this section intends to include both those groups).

- Stakeholders

Anyone interested in gTLD policies (especially participants in, and representatives of, the GAC and the GNSO).

- Others

The Board and the larger internet-governance community.

Engagement

Historical interest and engagement has been primarily focused in the GAC, Board and several GNSO members. The level of engagement is increasing.

We now have a small, focused group whose purpose is to tackle the immediate issues identified above. This group could be considered the "champions" of the effort to take those issues on. On the GAC's side, we also have our partners on the Board who populate the Board-GAC Recommendation Implementation Working Group (BGRI-WG) and to whom we'll be sharing updates.

Scope, Size and Perspective

This exercise has elements of both a broad-focused strategic effort and a project to achieve specific outcomes. We are pursuing a vision of improving the interactions between the GAC and GNSO vis a vis policy development.

We are also working toward two specific outcomes;

- Testing the idea of a GNSO Liaison to the GAC, and
- Developing different methods of interaction between the GAC and the GNSO PDP process.

Out of scope:

Other facets of the GAC Early-Engagement initiative such as

- Early engagement between the GAC and other AC/SOs, and
- One-page monthly public policy updates

Goals & Objectives

Goal:

- GAC early engagement in GNSO PDP projects and closer functional coordination between the GAC and the GNSO organizations.

Objectives:

- An agreed process for ongoing smooth and timely information exchange between the GAC and the GNSO.
- An agreed process for ongoing smooth early engagement of GAC in GNSO PDP projects.
- An agreed procedure for how to proceed in cases where GAC early input is in conflict with a GNSO proposal and a mutual agreement could not be reached.
- Proposals for accommodating the different working methods between the GAC (which tends toward an intense, "episodic" norm) and the GNSO (which is geared toward constant ongoing level of effort).

Deliverables:

- A documented process (table, flow chart, ...etc.) for ongoing smooth and timely information exchange between the GAC and the GNSO organizations (GNSO Liaison to the GAC, permanent liaison/consultative group, ... etc.)
- An agreed documented process (table, flow chart, ... etc.) for ongoing smooth early engagement of GAC in GNSO PDP projects; along with an agreed documented procedure to be followed where GAC early input is in conflict with a GNSO proposal and a mutual agreement could not be reached.

Critical Success Factors

- Ongoing consultations and consideration of received comments to ensure everyone is on board at each milestone.
- Have a feasible ambitious time plan with concrete milestones as this is an outstanding recommendation of ATRT1, widely supported by the community which is looking forward to its implementation.
- The final agreed process should:
 - Be comprehensive and widely-supported, taking into consideration all possible scenarios (i.e. GAC and GNSO views are aligned at the start, GAC and GNSO come to agreement, GAC and GNSO diverge and are unable to reconcile their positions, etc.)
 - Be written in simple clear explicit language
 - Include clear guidance regarding expectations as to timeframe for

each step, yet be flexible to accommodate exceptional cases if need arises

- Agree on a follow-up mechanism and success measures.
- Maintain a channel to provide feedback to further enhance the process and document those changes whenever applicable.

Preferred Problem-Solving Approach

Organization

There will be 2 tracks of work:

- A mechanism for day-to-day ongoing cooperation (co-led by Manal Ismail and Jonathan Robinson)
 - Initial proposal
 - Issues arising from this proposal
 - How those issues could be addressed
 - An agreed documented process
- A mechanism for GAC early engagement in GNSO PDP (co-led by Suzanne Radell and Mikey O'Connor)
 - Description of status quo
 - Initial proposal
 - Issues arising from this proposal
 - How those issues could be addressed
 - An agreed documented process

Both tracks will work in parallel, with 2 different leads and with the involvement of all members.

Review and Approval

Both agreed processes will have to be approved by the GAC and the GNSO.

Both agreed processes will have to be tested and reviewed, in order to measure their success, provide any necessary feedback, enhance them where possible and document the changes where applicable.

Timeline

Singapore meeting – Charter and early drafts of proposals for review by GAC and GNSO

London meeting – Polished drafts of proposals for review, comment and possibly final approval by GAC, GNSO and other stakeholders

Los Angeles meeting – Final proposals; reviewed and approved by GAC and GNSO

The working group will conclude when final proposals are accepted by the GAC and GNSO

This timeline should not be taken to preclude experimentation or interim solutions that may be identified

Readiness

There is wide agreement on the need to engage the GAC Early within the GNSO PDP. The issue has been identified by the GAC-Board Joint Working Group (JWG), the Accountability and Transparency Review Team 1 (ATRT), the Board-GAC Recommendation Implementation Working Group (BGRI-WG) and most recently within the draft recommendations of ATRT2.

This issue has also gained wide support from the community. So the need is agreed but the means has not yet been agreed. It's an outstanding recommendation that one can claim that the community is eager and looking forward to its implementation.

Resource Requirements

There is wide support across the organization and willingness to commit people, time and access-to-decision-makers.

The GNSO will provide secretariat and logistical support for this initiative.

ATTACHMENT 4

CONSOLIDATED LIST OF ACTIONS CONSIDERED BY GAC WORKING GROUP ON WORKING METHODS – FOR IMPLEMENTATION

(Singapore, March 2014¹⁰)

This document contains the proposals that the GAC WG on Working Methods has been discussing from the Durban meeting (July, 2013) and that were presented at the Buenos Aires meeting (November, 2013).

Proposals that revealed to be controversial both during discussions at the WG level and at their presentation at Buenos Aires have been taken out. The WG and the GAC as a whole will continue to discuss them with a view to finding common ground too on them. These proposals concern:

- Exceptions to the open nature of GAC meetings.
- Decision making process at the GAC.
- Number and role of Vice Chairs.

Proposals that are ripe for implementation are clustered as follows:

- a) Routines for organizing GAC's work.
- b) Increasing active participation in GAC discussions.
- c) Interaction with other constituencies.
- d) Explanation of GAC work and monitoring of GAC advice implementation.

Nevertheless, some of them touch upon issues that have been set aside for further discussion. So, they should be taken out of the first implementation plan. They are left out of this document.

A) Routines for organizing GAC's work.

1. Role of the Secretariat:

The Secretariat has an important role to fulfill in preparation of the meetings to ensure that representatives have the key information necessary for formulating their positions on issues and for contributing to GAC decisions and consensus advice.

The proposals set out hereunder should be taken into account in the Service Level Agreement to be signed with ACIG.

The role envisaged for the Secretariat entails:

- Drafting papers containing background information and explaining the public policy aspects relating to each agenda issue along with other interests affected and if known, the positions of other constituencies in ICANN.

- Making sure all key documents are available well in advance of the meeting.

¹⁰ With edits to delete issues taken off from the Implementation plan to be adopted in London, made on 30th April, 2014.

- Liaising at regular intervals with the other SOs' and ACs' secretariats in order to provide as full a picture as possible on their respective positions and where appropriate process status.
- Tracking on-going internal discussions, ensuring that deadlines are met and that GAC input is compiled into a draft GAC advice.

Other related tasks of the Secretariat:

- Providing guidance to members to grasp the core meaning of e-mails or communications forwarded to the GAC. Guidance includes succinct information on context, prioritizing, tentative next steps and generally how to handle and react to the content.
- Assisting the Chair as appropriate, in relaying information to the GAC about inter-sessional meetings or exchanges between the GAC Chair and members of the Board and/or other constituencies.
- Improving the GAC website. It is suggested to apply best practice in website design, so that finding and retrieving relevant information is easier than it is at the moment. This should be taken as one of the first tasks of the new Secretariat.
- Relaying reports from SOs and ACs to the GAC when there are not presented to the GAC in a face-to-face meeting.
- Preparing a brief note to the GAC in relation to the GAC Early Engagement in GNSO Policy Development Process summarizing the main new elements since the previous notice, and advising the GAC of public policy issues that deserve attention.
- Writing portions of the Communiqué as appropriate (see below).

2. Agenda:

Several measures concern the agenda drafting and fulfillment:

- Setting the agenda time ahead of the meeting:
 - Establishing an agenda setting routine with steps and deadlines steadily applied ahead of every meeting, including:
 - 1) Distributing an indicative draft of the meeting agenda 2 months in advance, intended for members to obtain approval for attendance and make travel arrangements.
 - 2) Distributing a draft of the meeting agenda, objectives and deliverables for the meeting well in advance of it, e.g. 6 weeks.
 - 3) Consulting on this draft with the membership (by email and teleconference).
 - 4) Distributing a final annotated agenda in advance of the meeting, e.g. 3 weeks.
- Achieving a better balance between times allotted for meetings with the Board, the Staff, the Board working groups and committees and ICANN constituencies, on the one hand, and for discussion among GAC members on issues on our

agenda, on the other hand. That means time for GAC discussions should be even to or exceed time for joint meetings.

- Time assigned to GAC plenaries is "sacred" and cannot be eaten up by delays or late ending of meetings with constituencies. If necessary, meetings scheduled with constituencies are to be sacrificed if after the first exchanges of views, it's obvious that members need more time to discuss the issue at hand.
- Concentrate sessions with constituencies in one day. An exception could be made as regards meetings with the ICANN Board, the Staff, as well as with the BGRI and ATRT 2 as far as GAC matters or its relationship with ICANN community is on the joint session agenda.
- Avoid starting meetings on Saturdays.
- Changes in the agenda once the meeting has begun have to be consulted with the whole GAC before they are approved.

3. GAC Work plan and Calendar:

A. GAC Work plan.

The GAC should develop a yearly Work Plan, a list of issues of priority to the GAC to be discussed in the GAC the forthcoming year.

The Work Plan should be agreed and approved at the Annual Meeting (the last meeting of each calendar year).

The development of the Work Plan should start early enough before the Annual Meeting to ensure that it is approved. The plan should be iterative so that new issues of importance to the GAC could be included, if needed.

The Work Plan should be used actively in the planning of GAC's work and agenda setting and could help in having more effective meetings – both in the GAC and with the Board and the other constituencies.

The plan could facilitate the coordination of our work/discussions with the Board and the other AC/SO's and allow for discussions on substantive issues from an early stage.

On the basis of the Work Plan, the AC/SOs (the GAC chair could delegate this task to Vice Chairs or the Secretariat) should develop a list together with issues of common interest/priority that would act as a starting point for setting the Agenda for the GAC meeting and would help in prioritizing with whom the GAC should meet.

The identified issues of mutual priority would act as a basis for developing questions upon which the discussions between the GAC and the other constituencies would take place. This could help avoiding meetings with no real substance, such as presentations and (hopefully) ensure issue-based discussions with a clear purpose to be fed into ICANN's decision/policy making processes.

B. GAC Calendar:

A calendar should be developed with all main activities related to the GAC, including the planned activities of the Chair – meetings, teleconferences etc.

The GAC calendar should be developed around the 3 yearly ICANN meetings.

As a standard 2 GAC telephone conferences should be scheduled in between the ICANN meetings.

The calendar should be visible on the GAC website. There may be a need for two calendars, one internal on the "GAC-only page" and one on the public GAC website.

The calendars should be updated regularly with new activities (e.g. every Monday?, every fortnight?).

4. Information on inter-sessional meetings which are attended by the GAC Chair:

The GAC should receive full accounts of the inter-sessional exchanges between the Chair and the ICANN Board, in her capacity as GAC liaison, as soon as possible after such exchanges take place.

*The GAC Chair is a member of the Board in her capacity as GAC liaison, of the New gTLD Program Committee as non-voting Liaison and of the Accountability and Transparency Review Team 2 ex-officio. These bodies have regular meetings as can be seen on their websites, attended by the GAC Chair.

It would also be useful, and possibly educational, for GAC members to be briefed on internal arrangements, such as the budget ICANN allocates to GAC expenses (e.g. travel support, Secretariat support and interpretation).

5. Meeting handling, including the communiqué drafting:

Some proposals are related to the minutes:

- Minutes should include session summaries, their conclusions, the identification of action points and, where applicable, the chosen "sherpas" in charge of each action point.
- Minutes should be circulated at most 3 weeks after the relevant meeting.

Others refer specifically to the meeting handling:

- The GAC should devote enough time at the start of each meeting to confirm the "action items" arising from previous meetings. Thus, the GAC will keep track of the commitments made in previous meetings, on the basis of minutes.
- The GAC should start sessions on time and adhere to defined times for re-starting meetings so that valuable time is not wasted and unproductive.
- We should try to fulfill the agenda, that is, to effectively cover all items on the agenda. To this end, it is of the utmost importance to stick to the timetable.

- The GAC should start discussing issues on which it will deliver its advice from the outset of the meeting and time should be allowed to check whether there is rough consensus, there are differences but a good prospect to sort them out or there is a huge distance between parties and they need to confer to discuss it further. Whether these conversations take place in the GAC plenary or in small working groups depend on the interest the issue may have for some or all of the members.

A third group of proposals pertains to the Communiqué drafting:

- Drafting the Communiqué should be done as the meeting progresses.
- Either the Secretariat or volunteer GAC members should write portions of it corresponding to advice already agreed.
- These portions are to be shown to the GAC plenary every day so that members have enough time to read it and propose amendments. A suitable time slot should be reserved for this task.

The last group of proposals addresses the issue of “on the spot” working groups:

- Important time should be allowed to progress on difficult issues in the margins of the main meeting. When the GAC perceives that consensus is going to be hard to achieve on a certain issue, the Chair could set up a working group which would meet in parallel while the GAC progresses through its agenda.
- Working groups would afterwards report to the plenary on their compromise proposal. Thus, the GAC could complete its agenda and devote the amount of time needed for each of the agenda items.
- This practice should be combined with early planning and preparation for meetings as many GAC members attend GAC meetings with just one representative who could be reluctant to be in an “on the spot” working group if another issue of interest is progressing in the main GAC meeting.

B. Increasing active participation in GAC discussions:

Several ideas have been suggested:

Surveys: a survey of GAC members could be done to shed light on why governments do not participate in conference calls and more generally in GAC activities (discussions on-line, face-to-face meetings...).

- Forwarding correspondence with explanatory information: The Chair, Vice Chairs and Secretariat should endeavor to provide guidance on context, prioritizing, tentative next steps and generally how to handle and react to the content when sending messages to the GAC mailing list, especially when forwarding correspondence from other ICANN bodies.
- Conference calls: the availability of interpretation should be better publicized. Slides could be projected so that participants can see on their screens what members are talking about.

- Applying language capabilities of the Secretariat to provide preparatory documents for face-to-face meetings in six UN official languages early enough for non-English speaking members to familiarize with the topics. The draft Communiqué should be written in other languages too. Members should be allowed to put forward proposals or amendments to the draft Communiqué in any of the six UN official languages. [Inferred from Gabon's contribution to the Working group].

C. Interaction with other constituencies:

1. Meetings with the ICANN Staff:

- The GAC may consider scheduling a session with the ICANN Staff at every ICANN meeting.
- Meetings with the ICANN Staff could be better structured and targeted to meet the GAC's specific demands. The GAC should be able to request beforehand what information is needed and provide questions.
- Sessions with ICANN staff should be interactive and open for questions during the presentation.

2. Meetings with other constituencies:

A. Elements to take into account when scheduling joint sessions:

The GAC should arrange meetings with other ICANN constituencies taking into account the following:

- relevance of the exchanges to the GAC's current agenda;
- requests previously made by members to have those joint sessions;
- the interest expressed by the other ACs and SOs in having a direct dialogue with the GAC.

All of these elements should be assessed before confirming a slot in the GAC agenda in order to ensure that the GAC's time is used most effectively.

B. No joint sessions to provide updates of SO or AC activities:

Meetings with constituencies should not consist of updating reports by the other ACs and SOs which can be provided in writing through the Secretariat liaisons. USA point out that reverse GAC liaisons or GAC leads in coordination with other SOs and ACs could also provide those reports to the GAC.

C. Thematic sessions with several constituencies:

There are many examples of issues where there is a shared interest within the ICANN community (including security and stability, WHOIS, and contractual compliance). It could be fruitful to have an exchange of views among different stakeholders and could save some time for GAC internal discussions. AUS suggests holding an open

meeting with all interested stakeholders/constituencies already in Buenos Aires on an issue with wide interest.

D. Meetings with lobby groups:

The GAC should ponder carefully the value in meeting with lobby groups or consultancies, which may not carry a valuable input for GAC discussions. If deemed worthy, they should be scheduled at the end of our meetings, on Thursday.

E. Discussion on issues raised at joint meetings and advice on them in the GAC Communiqué:

Many constituencies convey to the GAC issues revealing public interest concerns. The GAC should be able to reflect on them and include its position on the GAC communiqué, if members agree with the concern. Most of the times, the GAC just take note of the exchange of views with other groups and write a summary of the presentation in the "Inter-constituency Activities" section of the Communiqué. Instead, the GAC should give advice to the Board on issues that have been raised by constituencies in joint meetings.

A 10 minute slot could be added to joint sessions with constituencies for an only GAC session in which to think if there are public interest lessons to be learned from them.

3. On-going interaction with private sector stakeholders:

Fine-tuning GAC Early Engagement:

In relation to the GAC Early Engagement in GNSO Policy Development Process, GAC members would appreciate if the GAC Secretariat, who is the recipient of notices of new developments in a PDP, prepared each time a brief note to the GAC summarizing the main new elements since the previous notice, and advising the GAC of public policy issues that deserve attention.

Early Engagement documents are available at the GAC website in different languages and the GAC is advised of these postings through its mailing list.. At the bottom of the page, there's a link to the monthly policy updates provided by ICANN. As this information can be hard to follow and assess for GAC members, the Secretariat could scan these notices to find issues revealing public policy interests and prepare a brief note to grab the attention of the GAC to them.

D. Explanation of GAC work and monitoring of GAC advice implementation:

1. Improving presentation of GAC's work to the ICANN community.

This can be done through the following means:

- Introducing ourselves to the ICANN community through the GAC website:

Apart from the above-mentioned advantage for GAC members, the GAC website should also contain interesting news about its work which would increase GAC

transparency and enhance understanding of its history, role, mandate, principles and working methods by the larger ICANN community.

In addition to the factual information we suggested to introduce in GAC website before, the GAC website could include profiles of the elected officers, a list of the previous officers, the first version of the GAC Operating Principles and its subsequent amendments (in all six official UN languages) and a summary of the ICANN projects in which the GAC has played a fundamental role.

The meeting reports on the website should include the full list of members and their representatives who attended GAC face-to-face meetings. This could also be accomplished as an attachment listing all GAC attendees to each GAC meeting Communiqué.

- Seizing opportunities to explain our contribution to ICANN policies:

The step taken by the Board to put GAC Advice on new gTLDs to public comment should move us to reflect on ways to improve interaction with the ICANN community through developing a communications strategy comprising several elements. The interview given by the GAC Chair to ICANN's Director of Global Media Relations following the Beijing meeting was effective in communicating to a wide audience the main elements of the GAC's rationale behind the advice on new gTLDs. The GAC may want to use this means of addressing the global community again.

More immediate improvements in communication might include the provision, in parallel with the GAC Communiqué, of an explanatory narrative statement on how the advice was arrived at, its aims and rationales, and the holding of an open panel presentation and discussion at the ICANN meeting led by the Chair and Vice-Chairs, possibly as part of the public forum agenda. The GAC could also take questions afterwards through its website.

USA think that an open meeting policy can satisfy this objective to a significant degree; the exchanges among and between GAC members offer the best insight into the rationale for the GAC's policy advice.

AUS points out that if an open meeting policy (with the exceptions outlined in the publicity of meetings paper) is accepted then the issue of explaining GAC advice will be much easier to handle. Therefore, AUS is of the view that the two approaches could be complementary, so that the GAC could have a preference for working in open meetings and seek to explain its work through other measures as appropriate.

The point raised by AUS is a valuable one. Indeed, complementing open meetings, where possible, with a more comprehensive explanation of GAC Advice rationale would significantly improve understanding of GAC's work and role.

We doubt though that full transparency of GAC deliberations can supersede the need for a proper explanation of rationale behind GAC advice since decisions might be made in small working groups or corridors. Moreover, the GAC may need to hold some sessions in private to have an undisguised and pressure-free debate.

2. Monitoring implementation of GAC advice:

The following actions are suggested to enhance monitoring of the implementation of GAC advice.

- Description of the gist of each item:

The GAC Register of Advice recently implemented on the GAC website is a useful tool to track GAC requests addressed to the Board and GAC Advice implementation, but it could be improved if it were preceded by an introduction on the substance of GAC recommendations –whenever there have been several communications on the same subject- and the response given by the Board, so that members do not have to read the entirety in order to recall the GAC’s line of thought.

- Obtaining feedback from ICANN:

The GAC Register of Advice should provide information on the implementation of GAC advice in order to enable GAC members to understand more fully how and to what extent it has influenced policies pursued by ICANN.

- Making the Register of Advice easier to understand:

Moreover, the GAC needs to decide a structured way of using the register in preparation of GAC meetings and GAC communication with the Board. Even though the register has been operational for several meetings the GAC has never discussed the progress of issues in the register in a structured way.