

NOTES OF GAC-BOARD POST-COMMUNIQUE CLARIFYING CALL 31 JULY 2108

Present

GAC: Manal Ismail, GAC Chair, Suada Hadzovic (Bosnia and Herzegovina), Thiago Jardim (GAC Vice Chair, Brazil), Pär Brumark (GAC Vice Chair, Niue), Hisham Aboulyazed (Egypt), Rahul Gosain (India), Gloria Katuuku (Uganda), Ashley Heineman (United States), Luisa Paez (Canada), Taylor Bentley (Canada), Rita Forisi (Italy), Charlotte Simoes (Portugal), Vincent Museminali (Rwanda), Brian Beckham (WIPO), Peter Roman (US DoJ)

Board: Cherine Chalaby, Avri Doria, Becky Burr, Leon Sanchez, Maarten Botterman, Chris Disspain, Lousewies van der Laan, Kaveh Ranjbar, Khaled Koubaa, Jonne Soininen, Ron da Silva

ICANN Org: John Jeffrey, Akram Atallah, David Olive , Cyrus Namazi, Christine Willett, Theresa Swinehart, Susana Bennett, Erika Randall, Laurent Ferrali Vinciane Koenigsfeld, Wendy Profit, Michelle Bright, Lisa Saulino, Xavier Calvez

GAC Support: Robert Hoggarth, Fabien Betremieux, Julia Charvolen, Gulten Tepe, Tom Dale

Agenda

The call was structured around "Board Clarifying Questions and Updates", circulated to the GAC on 30 July 2018. These are in italics below.

GDPR & WHOIS

Unified Access Model: The Board has no further questions on this matter at this time. The ICANN Org is currently seeking input from the ICANN community on the critical components of a unified access model for continued access to WHOIS data. The Board welcomes and encourages the GAC's input to this process.

Publication of status report four weeks prior to ICANN 63: The Board has no further questions on this matter at this time. The GAC may note that ICANN Org recently proposed to community leaders a monthly informal update/discussion call with the leadership to address the range of interdependent GDPR-related topics. This would be in addition to the regular formal communications. The org anticipates beginning these calls in August.

Follow-up on previous advice – Board deferral of four items: The Board has no further questions on this matter at this time. The Board will take steps to address these in cooperation with the GAC, as ICANN org takes into account

the feedback from the European Data Protection Board, and community, and prepares for the next iteration of a unified access model, and if needed, any modifications to the Temporary Specification when the Board considers its renewal.

Discussion

Current work across all areas was noted.

IGO Protections

Maintain current temporary protections: *The Board has no further questions on this matter at this time. The Board will continue to maintain current temporary protections of IGO acronyms until the issue of protection for IGO acronyms is resolved.*

GAC advice to be taken into account following PDP on IGO-INGO access to curative rights protection mechanisms: *The Board has no further questions on this matter at this time. The Board notes that on 9 July 2018 the Final Report from the IGO-INGO access to curative rights protection mechanisms PDP was submitted to the GNSO Council, and it is currently under review by the GNSO Council. The Board will consider any PDP recommendations that are approved by the GNSO Council and ensure that GAC advice is adequately taken into account in any Board decisions. The Board also welcomes the GAC's desire to work with it and the GNSO, and the Board is open to suggestions from the GAC as to how it believes such collaboration can constructively take place.*

Accuracy & completeness of IGO contacts: *Can the GAC confirm that its request is for administrative resources to assist the GAC in maintaining the current list?*

Discussion

It was noted that GAC advice had been prepared before the PDP Final Report was issued. GAC and Board noted the recent letter from the United Nations on this matter. The GAC Chair stated that there would be further consideration of the issue by GAC.

WIPO noted the apparent breakdown of PDP procedures in this case resulting in no consensus on final recommendations, and that this may create problems for what the GNSO Council can convey to the Board. Board members noted that they are aware of these issues.

The GAC Chair confirmed that the request is for administrative resources as per the Board's question.

2-character codes at the second level

In order to fully consider the GAC's advice on two-character codes at the second level, the Board seeks to better understand the intention of the following advice language:

- *3.a.I – “resolve their concerns in a satisfactory manner”*
- *3.a.II – “necessary steps to prevent further negative consequences”*

Discussion

The GAC Chair and several members stated that 3.a.I essentially restates advice in the GAC Copenhagen Communique to, inter alia: “Immediately explore measures to find a satisfactory solution of the matter to meet the concerns of these countries before being further aggravated.” Those concerns still do not appear to be satisfactorily addressed.

Some Board members considered that the language in the Copenhagen Communique differs from the Panama City Communique in that the former asks for measures to be explored (which the Board believes it did), while the latter implies that a mechanism should be established. GAC members stated that, while further discussion is needed within the GAC, it seems clear that concerned members feel a mechanism is needed because efforts to date have not met their concerns.

The Board asked for clarification on whether GAC is asking for the Board to deal with concerns on a country-by-country basis, with potentially different mechanism for each, or for discussions with a group. This was noted as a matter for further internal GAC discussion. It was suggested that a focus on addressing the substantive issues would be more helpful than detailed concerns about process.

It was noted that the GAC had received the Board scorecard less than 24 hours before this call, precluding GAC internal discussion.

The GAC Chair advised that the advice on “preventing further negative consequences” was triggered by the release of 2-character codes in the .xxx domain just before the Panama City meeting.

It was agreed that a follow-up discussion between GAC and the Board on these issues should be scheduled and that the upcoming Barcelona meeting provides that opportunity.

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