ICANN71 | Virtual Policy Forum - Subsequent Rounds of New gTLDs (2 of 2)
Wednesday, June 16, 2021 – 11:15 to 12:00 CEST

GULTEN TEPE: Welcome to this ICANN71 GAC session, Subsequent Rounds of New gTLDs (2), on Wednesday the 16th of June at 09:15 UTC.

With that, I will leave the floor to GAC Chair, Manal Ismail.

MANAL ISMAIL, GAC CHAIR: Thank you, Gulten, and thank you everyone for your patience. We are starting our discussion of subsequent rounds of new gTLDs, the second session scheduled only for 45 minutes, so not much time. So I will hand the floor over to our topic leads, Luisa Paez, GAC representative of Canada, and Jorge Cancio, GAC representative of Switzerland and Vice Chair. Over to you.

JORGE CANCIO, GAC VICE-CHAIR: Thank you so much, Manal. Jorge Cancio, for the record. And thank you all for coming to this second session on subsequent procedures. You see the agenda on the screen of what we intend to cover during this short 45-minute session. We will have an overview of the topics of importance to the GAC and

look also into possible next steps and the different opportunities and let's say steps ahead of us in the coming months.

So if we can go to the next slide, we have here let's say the status of where we stand. We already touched upon this in yesterday's session, but just to let you know that, again, that as GAC after a collective effort during May, we submitted input to the public comment proceeding on the subsequent procedures' recommendations for ICANN Board consideration. I wonder whether staff could perhaps paste the link to this collective comment, that could be useful in case you want to look again into it.

And already, per letter of our Chair, Manal Ismail to the ICANN Board on the fourth of June, we sent let's say a preliminary response to the ICANN Board on the one side drawing their attention to this collective comment and to note that of course we are in the hands of the GAC membership in case that GAC consensus advice wishes to be sought on some of the concrete issues.

As to next steps, as we will see later on and as we discussed yesterday, the ICANN Board is envisaged to vote to start an operational design phase, ODP, as recommended by the GNSO Council. And later on after this operational design phase is

finalized, the ICANN Board is expected to take a position, a vote on the final report of the PDP Working Group, and in the interim we might, as I mentioned before, issue GAC consensus advice.

So if we can to the next slide we have here an overview of the concrete issues of importance to the GAC which were raised in the collective comment but we also have a set of over averaging consideration which we shared with the Board and which we discussed yesterday with the Board in our bilateral, as you may recall, and for this overarching comments which I think of importance to all of us in the GAC, I would like to pass the floor to my colleague as topic lead and former Vice Chair, Luisa Paez.

LUISA PAEZ, GAC VICE-CHAIR: Thank you, Jorge. This is Luisa Paez, and I will focus on the next slides regarding providing an overview of the GAC overarching comments in the GAC collective input and I wanted to extend a thank you to all the contributions from GAC members into this collective input to the GAC, and then Jorge will be providing a review of the specific topics of importance to the GAC.

First of all, we also wanted to recognize that the GAC has taken unprecedented levels of participation and engagement in the new detailed subsequent procedures PDP to mitigate [reading] and I also wanted to take the opportunity to acknowledge and

thank the great collaboration with Jeff and Cheryl and of course all the PDP participants. It's important to know the GAC supports the multi-stakeholder process and not against the introduction of new gTLDs. That said, the GAC asks that the Board ensures all necessary steps and reviews takes place before the a new round of gTLD, for example like the CCT Review recommendations and the SSR 2 recommendations, as well that the GAC continues to have serious concerns concerning the absence of policy recommendations on DNS abuse mitigation in the SubPro PDP Working Group final report and notes that the Working Group efforts should be holistic and should you apply to both existing and new gTLDs.

So therefore, the GAC expects rapid action from the GNSO Council in triggering such a holistic effort to meet in particular the ICANN 66 communique language, and we note the ICANN70 communique language on abuse as we see here on the slide, it should be addressed in collaboration with the ICANN community and org prior to the launch of a second round of new gTLDs. The GAC supports the development of proposed contract provisions applicable to all gTLDs to improve responses to DNS abuse. The GAC emphasized importance of taking measures that ensure registries, instructors, and privacy proxy services providers comply with provisions in contracts with ICANN including audits.

The GAC welcomes the DNS abuse institute and encouraging communities' efforts to tackle DNS abuse in a holistic manner.

Also important to note the GAC does not intend nor wish to unnecessarily delay the process to prepare for a future round of new domain names. But as mentioned, the GAC considers the DNS abuse needs to be addressed and sees value as well in the SSAC's comments on SubPro that waiting until efforts to mitigate DNS abuse can be equally applied to all existing and new gTLDs effectively seeds the ground for malicious actors who can depend on the long policy process to hinder meaningful anti-abuse measures, and the GAC urges the Board and the ICANN community to collectively and meaningfully address this situation.

As well within the overarching comments, the GAC made note and highlighted the importance of receiving on objective and independent analysis of cost and benefits, drawing on the experience with and outcomes from the 2012 round of new gTLDs, and the objective and independent analysis would allow the GAC to offer further advice ahead of a launch of round of new gTLDs, so very important to us. And finally, the GAC calls upon the Board to provide a comprehensive overview and periodic updates on all issues that need to be addressed before the next round of gTLDs, so we think important that good communication

ICANN|71
VIRTUAL POLICY FORUM

and updates coming from the Board, and I will pass it to Jorge who will give you overview of specific input of topics of importance to the GAC that were included in the GAC collective comment. Thank you.

JORGE CANCIO, GAC VICE-CHAIR: Thank you, Luisa, and please don't be shy and if you have any questions, please put them on the chat or raise your hand and intervene. We would like to have this session also as interactive as possible.

Regarding the comments by topic -- and if we go to the next slide, please. We see here some old friends, so to say, because these are issues that we have been raising now for a certain time. I think for the first time in some depth in the comments we made to the draft final report back in September of last year. We again reiterated some of them when the GNSO Council was about to decide on the final recommendations, and now you can find the detail of these comments in the GAC collective comment we filed on June 1st and which we have pasted, I think at the same time, Benedetta and I, into the chat. I refer to document for the whole length of the comments.

We will go over the slides rather quickly, so you have here on this slide the issue of predictability. As you may remember, there are

a certain number of recommendations in the final report on how to provide for greater predictability and clarity for applicants and all parties interested in the application process. And there is a provision for the creation of a special committee, so to say, which is called SPIRT, which would try to manage the possible changes during the implementation during the launch phase of the application process. And there we have asked for some clarification on the role of the GAC in order that there is equitable participation on an equal footing on the SPIRT by all the interested ICANN communities including the GAC. So this is let's say to reinforce the role we as the GAC should have in such discussions in case adaptations or changes are needed to the rules applicable to the launch of applications.

A second issue that is of importance to the GAC and which we have raised again is the one related to registry voluntary commitments, in the old wording, public interest commitments, and there as we have been repeating different times, we still have serious concerns about the absence of recommendations on DNS abuse mitigation. I won't go into the detail because we have dealt with this at length, and in addition, we have stressed that any [indiscernible] need to be enforceable through clear contractual obligations and [reading]

The next slide, applicant support and closed generics. Applicants support mainly directed to applicants from emerging economies, from developing countries, although it has been framed in a broader fashion. And there we have highlighted to the Board that it's important that efforts are made -- and this is very much in line with what Goran was saying yesterday -- to foster applications from all regions which could also include applications from regional and local authorities and that we need to make all the efforts possible to increase the number of applications from underrepresented regions. And one point raising it could be considered whether ongoing ICANN registry fees could be reduced or eliminated in order to expand financial support for such applicants.

MANAL ISMAIL, GAC CHAIR: Jorge, I see Kavouss' hand up. Would you like to take questions now or wait?

JORGE CANCIO, GAC VICE-CHAIR: Sure, if it's related to...

IRAN: Sorry, Jorge, it's related and not related. It's related to everything you are going to say. You have asked, or we have asked that certain action to be completed before the new round is started.

How do you want to implement that? We are one of the many other constituencies. How do you want to implement that? Would it add to GAC advice sometime, this meeting or next? Because you say this should not be done before the -- how do you implement? Just a general question. You may reply at the end of your presentation. Thank you very much, and thank you, Luisa, very much for all your efforts.

MANAL ISMAIL, GAC CHAIR: Yeah, you can leave it for the end, Jorge -- sorry to interrupt. And thank you, Kavouss.

JORGE CANCIO, GAC VICE-CHAIR: Thank you so much, Manal. This is what I was going to say, let's talk about that at the end of the session. Regarding closed generics, here we have to remember that there was no consensus recommendation from the working group and that this is an issue of concern, not only for us, also for ALAC, even also for the Board which has been looking into this very steadily in the past months. And there we have joined opinion with ALAC calling upon the Board that there should be a suspension of closed generics until policy recommendations or a framework on the delegation of closed generics which serve public interests are developed by consensus.

So here we may remember that we supplemented our Beijing advice from 2013 with a number of elements in the different inputs we have been making, and we have drawn the attention of the Board to those elements. And basically, as there is no consensus recommendation from the Working Group, we deem it necessary to go back to the policy development process to be in a position to accept such applications on closed generics.

Next slide, please. Great. On name collisions, we have introduced some new wording in the GAC collective comment at the initiative of one of our members. And here we have drawn the attention of the Board to the importance of ensuring an effective framework, measuring and tackling name collisions in further rounds, that the work of the name collision analysis project which is going in parallel should be taken into account. We have drawn also the attention to related recommendation from the SSR 2 process, and we support the setting up of a framework to characterize the nature and frequency of name collision and resulting concerns so that the handling of sensitive data and security threats is allowed.

Next slide, please. Here I think we have heard this many times before. There are some comments from our side on how GAC consensus advice and GAC early warnings should be handled, with a future Applicant Guidebook or future applicant rounds. And there is a consensus view from the GAC that we don't support

the language and the recommendations related to dis-incentivizing any such advice after the finalization of the next Applicant Guidebook, we are cognizant we should intervene lightly whenever the next round started because predictability and security and clarity very important to applicants. But at the same time, as we saw in the 2012 round, there might always be issues arising, and after all, GAC consensus advice, as you all know, has a very high threshold to be agreed upon.

Recommendation 30.4, you will remember diversity of views within the view on the strong presumption language of the 2012 Applicant Guidebook which provided if there is a GAC consensus advice against an application, there should be a strong presumption that this application shouldn't proceed and as said, there are different views within the GAC on that, and this is reflected in the GAC collective comment.

I think we can go to the next slide. Just to finish, early warning, there are minor aspects you can see in the collective comment that also pertain to that field. On community applications, we join opinions to a wide extent with ALAC in order to further improve the rules applicable to these kinds of applications which I think are also very much in line with the idea of fostering also different language and cultural and regional communities, so this would be consistent with what Goran was saying yesterday.

And regarding auctions and mechanisms of last resort, private resolution of contention sets, we also have made comments very much consistent with views from ALAC and which to a large extent respond also to concerns that the Board had expressed last September regarding the use of private auctions in the resolution of contention sets, and we think that the rules being proposed by subsequent procedures Working Group going to the right direction but still not enough to make sure that private auctions are used the least possible and that everyone participating in such a resolution procedure does it without an intention to game the process and obtain private gain by just participating in it.

So I think these are the specific topics. I don't know if there are specific questions to any of these issues. Otherwise, perhaps before we go into next steps, we may try to answer the question that Kavouss made? How do you see that Manal?

MANAL ISMAIL, GAC CHAIR: Sure. I see Vincent's hand up, if you would like to take France.

JORGE CANCIO, GAC VICE-CHAIR: Sure. Vincent, the floor is yours.

FRANCE:

Yes. Sorry, thank you very much, Jorge and Manal. I had a bit of a sound problem, sorry about that. Good morning, good afternoon, and good evening, dear GAC colleagues. Thank you very much, Luisa and Jorge for your great work and your great presentation, as always.

I would like to, once again, use the privilege of speaking in my own language, in French, so please bear with me.

(Through interpreter) So as you know, France has particular reservations, namely on the SPIRT mechanism. As you know, we consider this to potentially be able to overburden ICANN's procedures and the GAC's consensus advice which are submitted to the Board may not be as considered so even though the mechanism is yet to be known in detail, we believe there may be conflicts between the ICANN's bylaws and articles of incorporation and the SPIRT. There may be conflicts within the two but remains to be seen once we have the necessary details. So I don't want to reiterate the details that have been said so many times, and I apologize if I do, but I think SSAC 114 could perhaps shed some light on the matter because they spoke of the flow of the mechanism. However, I think the recommendations contained in SSAC 114 and the GAC's positions were quite in line, in line in particular with the GAC's Montreal communique

regarding adoption of strong measures to fight DNS abuse before any new series, new gTLDs can be launched.

There are similarities between our position and is those of other stakeholders who have published other documents. Manal, Luisa, Jorge, you have put it clearly many times before, the GAC in favor of the opening of new gTLDs as soon as possible but we have a number of requests, in particular, the fight against DNS abuse. So we need to strike a balance between the launch of the new series of gTLDs and the fight against DNS abuse. And I know our colleagues in other stakeholders' groups share these concerns, such as is clear when reading the SSAC 114, so I think that needs to be made clear. Thank you.

JORGE CANCIO, GAC VICE-CHAIR: (Speaking French) I think that I was seeing another hand, but I have the impression that it was lowered again. In any case, returning to the general question that has been posed by our colleague Kavouss regarding the implementation of recommendations, maybe I can take a first stab at it. And of course Luisa, Manal, you can complement, correct me.

I have the impression that we have been calling for the implementation of the different recommendations of review teams as early as in the Helsinki advice, maybe at that point of

time it was a more general advice on that regard where I feel we were talking about all necessary steps at that point of time and reviews. And in the Montreal advice, which is after all a GAC consensus advice, so we all agreed on it, we called for the implementation of the recommendations on the CCT review team which were put into two categories which were in terms of time more urgent. And we have had exchanges with the Board since Montreal, trying to be more specific and be more nuanced on what means implementation or complete implementation specifically, and without going into the legalistic details -- and Manal may correct me -- our intention is to base, to ground this advice on common sense, and everything which can be implemented reasonably, according to best efforts before the next round is launched, should be done so. There are other elements which normally will only be possible to be implemented during the launch or whenever the new strings are introduced into the root. So I think we have given some clarity on that.

Of course the GAC stays at a high level. We are not a duplicate of ICANN org and cannot go into the weeds of each and every recommendation detail, but I think that is the intention of also leaving some discretion to the Board and to org, to what extent recommendations can be implementable, at what exact point of time. But if you apply common sense, it's clear that some recommendations which were passed over by the Board to the

GNSO and then to Working Group of the GNSO have not been addressed yet, and common sense also says to us that this has been reflected by SSAC 114, by SSAC 115, by the SSR 2 review team and by advice from ALAC to the Board.

So I think we all are pushing in a very similar direction which is calling for reasonable efforts to address these very important outstanding issues like DNS abuse before we start with the new rounds, being mindful that having the operational design phase still before us which will take more than six months, as Goran said yesterday, there is still plenty of time to address the overarching comments we made in the GAC collective comment, which perhaps it's worthwhile reminding everyone, was also drafted on a consensus basis. So I leave it and of course defer to Luisa and Manal.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Jorge. And I agree with what you have mentioned. I'm just also flagging a couple of comments in the chat, Jeff inviting GAC to review the contracted parties house DNS abuse session recording when they are available and also suggesting an exchange on the details that we -- between GAC and the GNSO on the details as there were many of the CCT recommendations that were included in the SubPro recommendations final outputs.

So I think -- and suggesting a briefing with the GNSO to discuss exactly how they have addressed the CCT RT recommendations, if this works for everyone. Jorge, things you mentioned that needs to be addressed prior to the next round, and indeed the first language may have caused some confusion. I can't recall the exact word, whether it was to resolve or to solve all issues, and indeed some things, they are ongoing, and others cannot start before even the second round starts. But as Jorge mentioned, some things could be started, could be addressed, and we can see how much we can achieve, and if not, then there will be a good reason not to.

So nothing more from my side. I just noticed Kavouss at some point in time noting that this does not reply to his question, so I'm not sure whether by the end of the intervention the question was addressed or not, Kavouss. If not, please let us know. And I pass it over to you again, Jorge, for any other questions. But I see Kavouss' hand up so maybe we can -- I think it went down, not sure. Kavouss, are you in queue or shall we...

JORGE CANCIO, GAC VICE-CHAIR: We have Finn also.

MANAL ISMAIL, GAC CHAIR: Yes.   So if this was not a hand from Kavouss, Finn please, go ahead.

DENMARK: Thank you, Manal. And thank you to Jorge and Luisa for this good presentation. As to the question concerning the implementation of the different advice which have been given and the work that we have used previously, I think it's important that we have a list of what we think should not be implemented before the round. I think actually we use the words concerning the CCT review, that some should be fully implemented before the round starts and I guess it is consensus advice and we need those things to be implemented.

And also, which I raised the other day, we have been asking many, many years and many, many times for a cost/benefit analysis, an independent analysis, and the Board has accepted that and they haven't produced anything of that, so I think it's critical that we still see that this is important before a new round. There has been plenty of opportunity to solve different issues and especially on the DNS abuse, we think it should be solved before. Because if we enter into a new round, there should be legal certainty for the actors in the new round of what will be the condition after the round is finished. So we need an overview in order to address

what of the different things which and which can be implemented after a round initiated. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Finn. Sorry, Jorge, if you were moderating. So I see no further requests for the floor so I will stop here, handing it back.

LUISA PAEZ, GAC VICE-CHAIR: Thank you, Manal and Jorge. I think this is now a good opportunity to focus forward looking in regards to the proposed next steps and key milestones for the GAC to keep track and of course discuss today as we depend on the input and direction from GAC members. So we think an important step will be the operational design phase, as expected the Board will be launching the ODP soon, for us the specific focus will be the community consultation.

As you recall yesterday, the ICANN Board provided a very informative presentation on what the ODP phase would entail and what it would not entail so once certain milestones of the ODP would be reached, they will be seeking community input on different aspects, for example on facts, figures and assumptions used for the ODP assessment, ensuring consistency between ICANN org's assessment of recommendations with existing

consensus policy as well as considerations from stakeholders who are expected to execute recommendations or are affected by them and any other requests from ICANN org or the Board on specific input.

So we were thinking it could be helpful if GAC members agreed to have some GAC volunteers for this ODP consultation process, so we wanted to bring this to the GAC and secure your views. Of course because this ODP is relatively new to us as well, so I guess we'll have to go month by month and see how things unfold, but I think for us it will be very important to continue the good collaboration, specifically for GAC members. The more informed we are the better GAC advice and guidance we can give to the Board. So we thought it could be an interesting proposal, but again, leaving it up to GAC members to see what you all think.

So I will stop to see if there's any preliminary reactions or questions. And as Jorge mentioned, the ODP, once it has been launched, I think it is expected to take at least six months or more, but again, we will of course keep track of it and again, having a GAC -- one or two GAC volunteers following closely this process would also be very helpful to be able to report back to the GAC membership. And Jorge, let me know if you have anything else to add on this topic.

I was just checking the chat. So again, I urge GAC members to think about the next step in regards to potentially volunteering to be part of the ODP community consultation. Of course as once the ODP is launched and we have more information, we will relay that to the GAC membership.

Our next slide is in regards next steps. Of course we wanted to ask the GAC membership and have the discussion here if there's any potential GAC advice that GAC members think it would be useful and constructive and actionable to provide at this point in time. So again, I open it up to the floor to see if there's any proposed advice on anything related, for example to the issues of importance to the GAC that we discussed or other important topics, this would be a good opportunity for us to discuss. Of course we know we have today the GAC drafting communique session, so that will of course be a continued opportunity to have this meaningful discussion, but we did want to ask these questions to GAC members.

So just waiting to see if there's any initial reactions or questions on this topic. Also to note, there will be other opportunities to provide GAC advice of course in terms of timing we have the upcoming -- it will be the ICANN72 meeting I believe at the end of October as well, that could also be a good opportunity. But again, it will depend on your feedback and direction. So again, we

wanted to take the opportunity to ask the question and also to think about the ODP community consultation.

I'm just seeing in the chat to see if there's any other feedback or questions. And if not, anything else to mention, Jorge or as well, Manal, any other business? Okay. So I think I will pass it on to you, Manal. But again, I wanted to thank all the comments and questions in the chat as well as Jeff as the GNSO liaison for your constructive suggestions, they're very well taken. So we look forward to those next steps.

Thank you very much, and I think -- as Gulten mentioned, there will be the GAC communique drafting that will start 10:30 UTC time. So I think at least from our side, Jorge and myself, this session can be finished, finalized.

So again, we thank all GAC members that participated today, and we look forward to a fruitful exchange during the GAC drafting sessions. Thank you.

GULTEN TEPE: Thank you, Luisa and Jorge. The meeting is now adjourned. Thank you, everyone.

[ENF OF TRANSCRIPT]