
GAC MEETING MINUTES

BUENOS AIRES, ARGENTINA

16-20 NOVEMBER 2013

The GAC expressed its sympathy for and solidarity with the people and government of the Philippines following the recent disaster of Typhoon Haiyan, and observed a minute's silence.

Meeting Attendance/Membership

Fifty-six GAC members and five observers attended the meeting, with one member participating remotely.

The GAC welcomed new members Montenegro and the Commonwealth of Dominica, and new observers the Organisation for Islamic Cooperation (OIC) and the Caribbean Telecommunications Union.

Changes in officially accredited delegates were noted, including Nigeria whose new representatives were welcomed and acknowledged.

Chair and Vice Chairs Reports

The Chair reported to GAC on her attendance at meetings of the ICANN Board and New gTLDs Program Committee (NGPC); the second Accountability and Transparency Team (ATRT2); and the Internet Governance Forum (IGF). Bi-weekly conference call between the Chair and Vice Chairs are now taking place.

Election of Vice Chairs

The current Vice Chairs were elected for a further one-year term by acclamation.

GAC Operating Principle No. 21 currently provides for three vice chairs. There was discussion of whether additional vice chair positions are needed to ensure representation of all regions and balance workload. This was considered further and action agreed in the discussion on working methods (see below).

GAC Secretariat

The Chair advised that a 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 31 December 2013.

GAC members welcomed the additional support capability provided by ACIG and stressed the importance of having a longer term contract in place as soon as possible so as not to lose momentum and avoid any gap between the end of December and the next GAC meeting in Singapore. Members highlighted the need for clearer planning and prioritization, inter-sessional briefing and meeting preparation.

GAC Planning and Priorities

The meeting reviewed the work of:

- Working Group on GAC Working Methods (Chair: Spain) – see below. Tom Dale of ACIG GAC Secretariat team to support the leads.
- Working Group on Future gTLDs (Chair: Australia) – see below. Michelle Scott Tucker of ACIG GAC Secretariat team to support the leads.
- Multi-stakeholder Meeting Strategy Working Group (MSWG) – Several GAC members are participating in this group. Olof Nordling, GAC Liaison, to track developments.

Working Group on Future gTLDs

(Chair: Australia)

Three main areas of interest to the GAC were discussed:

- Protection of geographic names (Lead: Argentina)
- Community-based gTLDs (Lead: Switzerland)
- Applicant support processes for developing economies (Lead: Trinidad and Tobago)

Work on geographic names is most advanced. A short presentation on work to date was made by Argentina.

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GAC agreed that clarification of the current Applicant Guidebook (AGB) with regard to geographic names is needed. Several members noted that lists of names were not the most helpful approach. Members disagreed on whether further work on protection of geographic indications (as opposed to geographic names) is needed within ICANN processes or whether this should be left to international trade fora.

There was support for engagement of the broader community as an input to the activities of the working group.

ACTION POINT: The GAC agreed to provide input as appropriate to the working group and to work towards a discussion on all three areas of interest – geographic names, community-based gTLDs and developing economy issues – and possible revised text for the AGB at the next meeting in Singapore.

Working Group on GAC Working Methods

(Chair: Spain)

Spain made a presentation on work to date.

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There was broad agreement on moving forward with the working group recommendations dealing with:

- Routines for organizing the work of the GAC.
- Increasing active participation in GAC discussions.
- Interaction with other constituencies.
- Explanation of GAC work and monitoring of GAC advice implementation.

Further discussion is needed on:

- Open vs closed GAC sessions.
- GAC decision-making processes.
- The number and role of Vice-Chairs.

GAC noted that some measures are already being put into practice, including progressive drafting of the communiqué, open GAC sessions as the default and engagement of additional secretariat support. The outcomes of work in ATRT2 and the BGRI also have links with GAC working methods. GAC suggested an overview document would assist the GAC and working group in taking issues forward.

ACTION POINTS:

Secretariat to work with the Working Group on an implementation plan for generally agreed procedural improvements, to be circulated inter-sessionally and submitted for agreement in Singapore.

The Working Group to consider further, and prepare options for GAC consideration in Singapore, the issues of open/closed GAC sessions; GAC decision-making processes; and the number and role of Vice-Chairs.

Multi-stakeholder Meeting Strategy Working Group

(GAC members: Trinidad and Tobago; USA; Portugal)

GAC noted that the work of this group is progressing, but without major outputs yet pending broader community engagement.

ACTION POINT: GAC to monitor developments in the MSWG and consider any implications for GAC operations.

High Level Meeting

GAC agreed that a high level meeting would be held in London in June 2014. This would not be a regular meeting or agenda of the GAC, but would involve and support the work of the GAC and ICANN. It would involve high level government officials who do not usually participate directly in GAC meetings, and serve to strengthen the role of the GAC and ensure good regional representation.

GAC members stressed the need for clear identification of priorities, specific outcomes on the public record and preparation of an agenda no later than the Singapore meeting.

ACTION POINT: GAC members and leadership to work with the United Kingdom (as host country) on timing and agenda issues inter-sessionally, with support from ACIG, to ensure appropriate decision points at the Singapore meeting and enable members to consult on a national basis as soon as possible.

GAC ADVICE ON NEW gTLDs

Category 1 and Category 2 Safeguards

The GAC had a productive meeting with the New gTLD Program Committee (NGPC) and sought clarification on a number of issues.

With regard to 'Restricted Access' registries, GAC members reiterated their advice from the Beijing Communiqué that registration restrictions should be appropriate for the types of risks associated with the TLD; and that access should be administered by the registry in a transparent way that does not give an undue preference to any registrars or registrants, including itself, and does not subject registrars or registrants to undue disadvantage.

Several members felt that greater clarity is needed on the implementation of this advice through Public Interest Commitment (PIC) specifications, for example the operation of dispute resolution procedures, and whether governments will have standing under the PIC Dispute Resolution Procedure to raise concerns on behalf of their constituents.

With regard to auctions to resolve string contention, some GAC members flagged possible issues such as access by smaller applicants to a level playing field and the situation of community-based applications. It was agreed to seek further information from the Board.

With regard to protection of children and their rights, GAC members noted advice in the Beijing Communiqué on application of Category 1 safeguards to new gTLD strings related to children. This is a multi-faceted issue and some form of stocktake of existing and proposed measures may be helpful. Members felt that consistency with the United Nations Convention on the Rights of the Child was relevant for registry operators.

With regard to which strings should be regarded as "regulated" or "highly regulated" for the purpose of determining appropriate safeguards, GAC noted the Board's advice in its letter of 29 October 2013 and the further information given by the NGPC at this meeting. With regard to .doctor, GAC considered that the term was so strongly identified with the medical profession that it should be moved from the "regulated" category to 'highly regulated'.

With regard to open and closed gTLDs, GAC welcomed the Board's advice of 29 October 2013 advising of ICANN's communication with applicants for generic strings to determine whether they will operate as an exclusive access registry. GAC members asked for clarification on how strings are identified as generic.

ACTION POINTS: GAC to request the Board for briefing on whether the Board considers that the existing PIC specifications (including 3c) fully implements the GAC advice on 'Restricted Access' registries in the Beijing Communiqué.

GAC to request the Board for briefing on the public policy implications of holding auctions to resolve string contention (including community applications).

GAC to advise the Board that it considers that new gTLD registry operators should be made aware of the importance of protecting children and their rights consistent with the UN Convention on the Rights of the Child.

GAC to advise the Board to re-categorise the string .doctor as falling within Category 1 safeguard advice addressing highly regulated sectors, therefore ascribing these domains exclusively to legitimate medical practitioners. The GAC notes the strong implications for consumer protection and consumer trust, and the need for proper medical ethical standards, demanded by the medical field online to be fully respected.

GAC, while welcoming the Board's communication with applicants with regard to open and closed gTLDs, to seek written clarification of how strings are identified as being generic.

GAC Objections to Specific Applications (ref. Beijing Communiqué 1.c)

GAC discussed the following applications as follows:

- .guangzhou (IDN in Chinese), .shenzhen (IDN in Chinese) and .spa – It was noted that discussions between interested parties are ongoing.
- .yun – It was noted that the application has been withdrawn.
- .thai – GAC welcomed the Board's acceptance of its advice in the Durban communiqué.
- .amazon – GAC sought and received an update from the NGPC on this application.

ACTION POINTS: GAC to advise the Board not to proceed beyond initial evaluation until the agreements between the relevant parties are reached for:

- The application for .guangzhou (IDN in Chinese) – application number 1-1121-22691
- The application for .shenzhen (IDN in Chinese) – application number 1-1121-82863
- The applications for .spa – application number 1-1309-12524 and 1-1619-92115).

.wine and .vin

GAC members continued discussions on the two strings .wine and .vin, following up inter-sessional developments since the Durban meeting, in relation to safeguards to prevent abuse of geographical indications within these strings.

ACTION POINT: GAC agreed that the following will be included in the communiqué for the Buenos Aires meeting:

The GAC took note of the developments on the two strings .wine and .vin from its previous meetings in Beijing and Durban.

GAC members have undertaken extensive discussions to examine a diversity of views on these applications, and the protections associated with Geographical Indications (GIs).

GAC considers that appropriate safeguards against possible abuse of these new gTLDs are needed.

Some members are of the view, after prolonged and careful consideration, that the existing safeguards outlined in the GAC's Beijing Communiqué and implemented by the ICANN Board are appropriate and sufficient to deal with the potential for misuse of the .wine and .vin new gTLDs. These members welcome the Board's response to these safeguards, which prohibit fraudulent or deceptive use of domain names. They consider that it would be inappropriate and a serious concern if the agreed international settings on GIs were to be redesigned by ICANN. The current protections for geographical indications are the outcome of carefully balanced negotiations. Any changes to those protections are more appropriately negotiated among intellectual property experts in the World Intellectual Property Organization and the World Trade Organization.

Other membersⁱ consider that delegation of .wine and .vin strings should remain on hold until either sufficient additional safeguards to protect GIs are put into place in these strings to protect the consumers and businesses that rely on such GIs; or common ground has been reached for the worldwide protection of GIs via international fora and wide array of major trade agreements. Given this changing context, they welcome the current face-to-face talks between the applicants for .wine and .vin. and wine producers, aiming to protect their assets and consumers' interests whilst taking into account governments' public policy concerns.

The Board may wish to seek a clear understanding of the legally complex and politically sensitive background on this matter in order to consider the appropriate next steps in the process of delegating the two strings. GAC members may wish to write to the Board to further elaborate their views.

Protection of Inter-Governmental Organisations (IGOs)

Discussions on this issue continued at Buenos Aires between the GAC leadership, NGPC members and IGO representatives. The GAC also noted progress on the relevant GNSO PDP. GAC, together with the IGOs, remains committed to continuing the dialogue with the NGPC on finalising modalities for permanent protection of IGO acronyms at the second level, by putting in place a mechanism which would:

- Provide for a permanent system of notifications to both the potential registrant and the relevant IGO as to a possible conflict if a potential registrant seeks to register a domain name matching the acronym of that IGO.
- Allow the IGO a timely opportunity to effectively prevent potential misuse and confusion.
- Allow for a final and binding determination by an independent third party in order to resolve any disagreement between an IGO and a potential registrant; and
- Be at no cost or of a nominal cost only to the IGO.

ACTION POINT: GAC to advise the Board in the Buenos Aires Communiqué of its preferred elements of a protection mechanism as noted above; that it looks forward to receiving the alternative NGPC proposal adequately addressing this advice; and that the initial protections for IGO acronyms should remain in place until the dialogue between the NGPC, the IGOs and the GAC ensuring the implementation of this protection is completed.

Special Launch Program for Geographic and Community TLDs

Several GAC members, particularly those from the African region, noted that the successful launch and continued administration of geographic and community TLDs requires the inclusion and protection of government and locally relevant name strings. Awareness raising at the regional level is needed to encourage appropriate applications and make use of protection mechanisms. The Trademark Clearinghouse is an important protection mechanism across all gTLDs but there may be specific issues at the local level that require further protection outside the traditional trademarks framework.

ACTION POINT: GAC to advise the ICANN Board in the BA Communiqué that ICANN should provide clarity on the proposed launch program for special cases as a matter of urgency.

Protection of Red Cross/Red Crescent Names

GAC members agreed that further consideration should be given to the way in which existing protections should apply to the words “Red Cross”, “Red Crescent” and related designations at the top and second levels with specific regard to national Red Cross and Red Crescent entities. Concerns include the need for safeguards against fraudulent fund-raising.

ACTION POINT: GAC will consider this issue further following the Buenos Aires meeting and provide advice to the Board.

.islam and .halal

GAC noted that it has previously provided advice on the strings .islam and .halal in its Beijing Communiqué as follows:

The GAC recognises that religious terms are sensitive issues. Some GAC members have raised sensitivities on the applications that relate to Islamic terms, specifically .islam and .halal. The GAC members concerned have noted that the applications for .islam and .halal lack community involvement and support. It is the view of these GAC members that these applications should not proceed.

GAC members took note of letters sent by the OIC and the ICANN Chairman in relation to these strings.

ACTION POINT: GAC Chair to respond to correspondence from the OIC and ICANN noting that GAC concluded its discussion on this matter in the Beijing Communiqué, and also noting OIC's plans to hold a meeting in early December.

INTER-CONSTITUENCY ACTIVITIES

Meeting with Generic Names Supporting Organisation (GNSO)

GAC met with the GNSO and discussed options for greater cooperation and interaction, consistent with Recommendation 12 of the ATRT1 and, most recently, Recommendation 10.2 of the ATRT2 Draft Report. There was support in principle for establishment of a reverse liaison, enabling a GNSO nominee to participate in GAC meetings. A significant number of issues with regard to GAC involvement in Policy Development Processes (PDPs) were identified, including timing and sequencing.

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There was agreement on establishing a joint GAC-GNSO working group to work through practical issues of greater GAC involvement in PDPs and appointment of a reverse liaison from GNSO to GAC.

ACTION POINT: A joint working group on GAC-GNSO engagement to be established, with terms of reference to be agreed inter-sessionally and membership open to volunteers. GAC lead: Egypt. GAC secretariat support and GNSO secretariat support to liaise on support arrangements.

Meeting with the Expert Working Group on gTLD Directory Services (EWG)

GAC met with the EWG and exchanged views on the EWG's current thinking as per their recent Status Update Report. GAC members identified a number of potential public policy considerations including the importance of applicable data privacy laws, the balance between public and restricted data elements, and the accreditation process to allow access to restricted data for legitimate purposes.

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ACTION POINT: GAC to continue exchanging views with the EWG. ACIG GAC Secretariat team to prepare a briefing paper for members.

Meeting with Country Code Names Supporting Organisation (ccNSO)

GAC met with the ccNSO and exchanged views on several issues.

Noting that the Internationalised Domain Names (IDN) PDP report is finalised, GAC members raised several issues, including availability of .eu in Greek script and the application of safeguards in all languages. The GAC may consider reviewing the status of the Interim Principles on IDN ccTLDs in light of the IDN PDP final outcome.

GAC was briefed by the Framework of Implementation (FOI) Working Group. Several public policy issues were noted, particularly around the link between IANA operations and national legislation. The working group suggests a structure where both ccNSO and GAC agreement would be necessary for a Final Report for all FOI topics. GAC will consider and respond to the report of the working group once it has been finalised.

GAC was briefed on outcomes from the country names study group, including a recommended uniform definitional framework for country/territory names in all Supporting Organisations and Advisory Committees. GAC will monitor and engage with further work as appropriate.

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ACTION POINTS: GAC to monitor finalisation of the working group reports on IDN and FOI, and respond as appropriate. GAC to monitor and engage with further work by the ccNSO on country/territory names.

Meeting with Accountability and Transparency Review Team 2 (ATRT2)

The GAC met with ATRT2 members and discussed parts of their draft report most relevant to the GAC: Recommendations 6 (enhanced understanding and transparency of GAC deliberations) and 10.2 (GAC involvement in PDP WGs) and suggestions for a GAC code of conduct.

GAC members welcomed the team's work and committed to further engagement. Members noted that GAC has moved to work more closely with the GNSO on PDP engagement; increased transparency through publication of minutes and making open sessions the default; and secure additional secretariat support. Further improvements will be pursued, including through the Working Group on Working Methods, appropriately coordinated with the ATRT2 process.

Several members expressed opposition to the proposal in the draft report for a code of conduct for GAC members, noting that members were subject to a range of national conditions as government officials that made a code of conduct unnecessary.

ACTION POINTS: GAC members will respond to the ATRT2 draft report on their own initiative by 13 December 2013. Further work by GAC on its working methods will be coordinated as necessary with ATRT2 and associated processes.

Meeting with the Brand Registry Group

The GAC met with the Brand Registry Group to discuss their proposal for a streamlined process under an addendum to the Registry Agreement for the approval of country names and 2-letter/character codes at the second level. This followed written communication to the GAC Chair.

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While most GAC members had no major concerns about brand owners at least seeking approval for such names, many felt that for practical operational reasons this should be done direct with the countries concerned rather than through a GAC-level operational process. There was agreement with a suggestion from one GAC member that consideration be given to establishing a register of countries that do not require individual applications to be made for names such as .brand.

ACTION POINT: GAC members to submit their comments to the Secretariat by end 2013 with a view to submitting a consolidated GAC view to the BRG as soon as possible before the Singapore meeting.
