ICANN 58 Copenhagen

11-16 March 2017

1. MEETING ATTENDANCE & MEMBERSHIP

Sixty-nine GAC Members and nine Observers attended the meeting.

The GAC welcomed Zimbabwe as a new Member. This brings GAC membership to 171 Members, and 35 Observers.

A list of attendees is at Attachment 1.

The GAC Copenhagen Communiqué is at Attachment 2.

Presentations used by speakers during the meeting and supporting briefing prepared for the GAC can be accessed, where available, from the GAC website (as slides or word/PDF documents). Full transcripts for each session are available at the Copenhagen schedule website.

2. PUBLIC POLICY AND SUBSTANTIATIVE ISSUES SESSIONS

2a: 2-letter country/territory codes at the second level

This issue was discussed at length in meetings with the Generic Names Supporting Organisation (GNSO) and the ICANN Board.

As has been the case previously, some GAC members have serious concerns about the Board’s approach to this issue and ICANN’s implementation of it. These include: Legal rights to own and control such codes being only one dimension, with political and cultural aspects being at least as important; Governments facing excessive pricing if they choose to register a code during the exclusive registration period; Processing of applications should not precede pending discussions with the relevant government; and the handling of this issue making it difficult to argue for ICANN and the multistakeholder model in other forums.

Other members do not share those concerns, and some see no problems with dot brands registrations in this space. However, there was general agreement that the Board’s response to GAC advice (including the most recent Resolution on this issue) has not been clear, and that implementation by the ICANN organisation has not addressed the concerns of a number of governments.

Members of the GNSO Council noted that current arrangements are a compromise that does not reflect the original Policy Development Process (PDP), and that Registries are not particularly happy with them either. They offered to arrange briefing for the GAC if that would help.
Board members reiterated their previous view that the Board has acted consistently with GAC advice. They offered to respond in writing to specific GAC concerns and/or to arrange discussions before the next ICANN meeting.

**ACTION POINTS**

1. The above discussions to be reflected in the GAC Communiqué *(Completed).*
2. GAC Leadership and ICANN staff to liaise with the Board and ICANN organisation on follow-up arrangements.

**2b: Protection of IGO Names and Acronyms**

GAC Members and Observers participated in a facilitated discussion on this issue, led by former ICANN Board member Bruce Tonkin. The discussion was seen as positive and constructive and the GAC will continue to participate in these ongoing discussions. It was agreed to advise the Board to pursue appropriate notification arrangements to IGOs and registrants. The GAC also made a submission to the Public Comment process for the Initial Report of the PDP on IGO-INGO Access to Curative Rights Protection Mechanisms.

**ACTION POINTS**

1. The above discussions to be reflected in the GAC Communiqué *(Completed).*
2. GAC Leadership and Observers to participate in further facilitated discussion.
3. GAC Members and Observers, supported by the ACIG GAC Secretariat, to monitor response of Curative Rights PDP WG to GAC submission.

**2c: Red Cross / Red Crescent / Red Crystal**

GAC Members and Observers participated in a facilitated discussion on this issue, led by former ICANN Board member Bruce Tonkin. The discussion was seen as positive and constructive. The Board supported these discussions by resolving to request the GNSO to reconsider its original PDP recommendations in light of GAC advice. This will be done in accordance with existing PDP rules.

**ACTION POINTS**

1. The above discussions to be reflected in the GAC Communiqué *(Completed).*
2. GAC Members and Observers, supported by the ACIG GAC Secretariat, to monitor GNSO response to the Board Resolution.

**2d: Competition, Consumer Trust and Consumer Choice (CCT) Review**

The Chair of the CCT Review Team, Jonathan Zuck, and GAC members of the Review Team (Megan Richards, European Commission; and Laureen Kopen, US Federal Trade Commission) briefed the GAC on the Team’s recently published Draft Report, which is open for Public Comment. Recommendations of particular relevance to the GAC include: safeguards for sensitive/regulated strings; public interest commitments; DNS abuse; and support for developing countries.

CCT Review Team surveys and studies are available at [www.cct.wiki](http://www.cct.wiki).
**ACTION POINT**

1. GAC members to review the Draft Report and consider the options of individual comments and/or a collective GAC submission to the Public Comment process. (All GAC Members + ACIG GAC Secretariat).

**2e: Future gTLD Policies: General**

The GAC met with the Co-Chairs of the GNSO PDP Working Group on New gTLD Subsequent Procedures; and also discussed GAC early engagement in PDPs with the GNSO Council.

GAC Members provided some feedback to the Co-Chairs on specific issues including treatment of previous GAC advice; managed rounds versus first-come-first-served; application fees; IDNs; and resolving contention sets. The issues of community-based applications, applicant support and geographic names at the top level are noted in more detail below. It was agreed that more GAC involvement in the PDP Working Group and its sub-groups would be mutually beneficial, although resource limitations in many governments are a practical barrier.

It was noted that GAC, along with other community members, would shortly receive the second set of community consultation questions (CC2) from the PDP WG.

The GAC leadership team proposed that one or two of the Vice Chairs take a lead role in co-ordinating GAC engagement with new gTLD policy development and this was noted.

**ACTION POINTS**

1. GAC members to actively participate in relevant PDP Working Groups in an individual capacity to the extent possible.
2. ACIG GAC Secretariat to continue to report to GAC on key developments.
3. GAC to consider its response to the CC2 questions when received. (All GAC members + GAC Leadership + ACIG GAC Secretariat)

**2f: Future gTLD Policies: Community-Based Applications for gTLDs**

The GAC discussed the recommendations of the report commissioned by the Council of Europe: Applications to ICANN For Community-Based New Generic Top Level Domains (gTLDs): Opportunities and challenges from a human rights perspective and was briefed by one of the authors. The GAC agreed that the report’s recommendations should be seen as an input to the PDP Working Group on New gTLD Subsequent Procedures.

It was agreed that the GAC Chair would write to the Board seeking an update on the status of the report called for in Board Resolution 2016-09-17: President and CEO Review of New gTLD Community Priority Evaluation Report Procedures.

**ACTION POINTS**

1. The discussions noted above to be incorporated in the Communiqué. (Completed)
2. Draft letter from GAC Chair to ICANN Board Chair to be prepared (ACIG GAC Secretariat).
2g: Future gTLD Policies: Applicant Support

The GAC noted that major problems with the recent new gTLD round have been identified in relation to the engagement of developing countries, including lack of awareness by commercial providers and users and under-usage of the ICANN Applicant Support Program. Recent and ongoing analysis includes a report commissioned by the CCT Review and work in the Subsequent Procedures Work Track 1.

**ACTION POINT**

1. The GAC Underserved Regions Working Group will be the GAC lead on this issue and engage with relevant community processes and report to GAC as appropriate. *(Underserved Regions WG + ICANN staff).*

2h: Future gTLD Policy: Geographic Names at the Top Level

The GAC was briefed by its Working Group on Geographic Names on continuing work within the Group on possible future best practices and the concept of a repository of names. GAC Members discussed the possibility of developing agreed GAC principles on geographic names as a possible objective for the ICANN 59 meeting and this will be considered further by the Working Group. The GAC noted that it will be invited, along with the rest of the community, to participate in a major cross-community session at ICANN 59 sponsored by the Subsequent Procedures PDP WG, preceded by an inter-sessional webinar.

The GAC was briefed on the Interim Paper of the Cross Community Working Group on Use of Country and Territory Names as TLDs (CWG-UCTN).

**ACTION POINT**

1. GAC to participate in inter-sessional webinar and cross-community session at ICANN 59, taking into account the work of the GAC Working Group, the CWG-UCTN and the experiences and views of individual Members. *{All GAC Members + GAC WG on Geographic Names + ACIG GAC Secretariat}.*

2i: Public Safety Issues

The GAC was briefed by its Public Safety Working Group (PSWG) on the group’s current work. The key issues raised were:

- Inclusion in the Communiqué of a further request (a “scorecard”) to the ICANN Board for information on measures taken by ICANN and contracted parties to counter DNS abuse. The response given by ICANN to questions included in the Hyderabad Communiqué was considered insufficient.

- The PSWG will shortly seek GAC approval for: (a) a Draft Security Framework for Registries to Respond to Security Threats; (b) a Law Enforcement Disclosure Framework as part of the Privacy/Proxy Services Accreditation Policy Implementation (PPSAI IRT).

- Progress in the PDP Working Group on Next-Generation gTLD Registration Directory Services to Replace WHOIS and the ICANN Review of the same subject area.
ACTION POINTS

1. Scorecard on DNS Abuse to be included in Communiqué (Completed).

2. PSWG to seek GAC agreement to documents as appropriate, and keep GAC generally informed of developments (PSWG + ICANN staff).

2j: Dot Web Auction

The GAC sought an update from the Board about concerns raised by some parties about the process for the auction of the gTLD dot web. The Board confirmed that they are aware of an investigation of this issue by the US Justice Department.

3. CROSS-COMMUNITY ENGAGEMENT SESSIONS

3a: Meeting with ICANN Board

The GAC met with the ICANN Board and discussed the following issues (outcomes are covered under relevant subject headings elsewhere in these minutes, as the Board meeting is usually only one part of the GAC’s handling of an issue at an ICANN meeting):

- 2-character country/territory codes at the second level.
- The ICANN CEO’s response to the questions in the Hyderabad Communiqué concerning mitigation of DNS abuse.
- Confidentiality of GAC documents.
- The Board’s new process for considering and processing GAC advice.
- An update on the dot web auction issue.
- The facilitated discussion on IGO protections and Red Cross Red Crescent protections.
- CCWG-Accountability WS2.
- GAC priorities.
- Scheduling the regular Board-GAC post-Communiqué call for approximately 5 weeks after the Copenhagen meeting.

3b: Meeting with Generic Names Supporting Organisation (GNSO)

The GAC met with the Chair and members of the GNSO Council. The key issues raised were:

- GAC involvement in PDPs, in particular the PDP WG on Subsequent Procedures: See above.
- 2-character country/territory codes at the second level: See above.
- Implementation Plan for the final status report of the GAC-GNSO Consultation Group: No specific concerns with the draft Implementation Plan were raised, and it was noted that action items are being progressed as resources permit. There was agreement that options for regular GAC-GNSO interaction to avoid possible disagreements at later stages in PDPs should be considered.
- Workload scheduling and management: There was agreement that multiple PDPs running in parallel are causing workload issues across the community. GAC and GNSO will continue to exchange views on possible solutions.

ACTION POINTS

1. GAC and GNSO leadership to continue regular inter-sessional calls. (GAC and GNSO leadership teams)
2. Consultation Group Implementation Plan to be progressed as time and resources permit. (GAC and GNSO leadership teams + ICANN staff + ACIG GAC Secretariat).

3c: Meeting with Country Code Name Supporting Organisation (ccNSO)

The GAC met with the Chair and other members of the ccNSO Council. The key issues raised were:

- An update on the ccNSO PDP on a retirement and review mechanism for ccTLDs.
- An update on the CWG-UCTN Interim Paper.
- Information resources provided by the ccNSO to the GAC Underserved Regions Working Group to help with queries on ccTLD delegation, transfer, revocation and retirement.
- A regular inter-sessional call between GAC and ccNSO leaderships: This was agreed.

**ACTION POINT**

1. A call between GAC and ccNSO leaderships to be scheduled before ICANN 59 (ICANN staff)

3d: Meeting with At-Large Advisory Committee (ALAC)

The GAC met with ALAC leadership and members. The key issues raised were:

- Geographic names: GAC and ALAC will continue to exchange information.
- Study commissioned by Council of Europe on community applications (see above).
- Draft survey of GAC members by Underserved Regions Working Group.
- The At-Large Review.
- CCWG-Accountability WS2 issues of mutual interest.

**ACTION POINT**

The GAC and ALAC will continue to engage in dialogue on the issues noted above. (GAC Leadership Group + ICANN staff + ACIG GAC Secretariat).

3e: Meeting with Registrars Stakeholder Group

The GAC met with the Registrars Stakeholder Group and were briefed on a range of issues including the role of registrars, relevant markets, regulatory requirements and responses to DNS abuse.

3f: Meeting with geoTLD Group

The GAC met with the geoTLD Group and had a constructive exchange on experiences with geoTLDs established in consultation with local authorities. It was agreed that continuing contact and exchange of information would be helpful.
**ACTION POINT**

Monitor geoTLD Group developments and maintain contact at support level (ACIG GAC Secretariat).

### 3g: Meeting with Data Protection Stakeholders

As part of a series of discussions across the ICANN community, the GAC met with representatives of data protection authorities, organised by the Council of Europe, to discuss data protection issues. Issues raised included the modernisation process for Convention 108 (Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data); balancing the interests of data protection and law enforcement; and consistency of ICANN contractual requirements with data protection laws.

**ACTION POINT**

1. GAC to stay in contact with relevant authorities and assist in facilitating dialogue with ICANN as appropriate (PSWG + ICANN staff).

### 3h: Meeting with Universal Acceptance Steering Group

The GAC received an update from the Universal Acceptance Steering Group (UASG) on their activities to make IDN domain names and email addresses, as well as new gTLDs, work seamlessly on all browsers, applications and software programs. The GAC noted with interest that the UASG would be publishing a White Paper on 11 April 2017, and discussed suggestions on how governments can assist with the dissemination of UA information and engage their own departments and local software communities to make their systems UA Ready.

### 3i: ICANN Contractual Compliance

The GAC was briefed by ICANN’s Contractual Compliance team on compliance activity and reporting with regard to implementation of gTLD safeguards recommended by the GAC, including: WHOIS accuracy, domain name abuse and public interest commitments.

### 4. ENHANCING ICANN ACCOUNTABILITY

The GAC-nominated members of the CCWG-Accountability WS2 reported on developments at the plenary and sub-group levels. It was agreed that all GAC Members should make particular efforts to be involved in the work of the relevant sub-groups as the process moves towards a draft report.

Discussion of the topics most relevant to the GAC covered:

- Jurisdiction: This is a priority for some GAC members. It is up to individual GAC members to respond to the current questionnaire from the relevant sub-group.
- SO/AC Accountability: A common GAC view on the draft recommendations is desirable.
• Human Rights: A common GAC view on the draft recommendations is desirable.
• Diversity: A consolidated GAC response to the forthcoming questionnaire from the sub-group is desirable.
• Transparency: Noted but not discussed in detail.

The GAC agreed to advise ICANN and the CCWG Co-Chairs that limiting the scope of ATRT3 to avoid overlap with WS2 work is a matter for the review team to consider when it is formed.

Implementation by the GAC of relevant Bylaws arising from CCWG WS1 recommendations is covered under “Internal GAC Matters” below.

**ACTION POINT**

1. GAC to be kept informed of developments and consider responses to WS2 draft proposals and requests for information on their merits (GAC Members of CCWG-WS2 + ACIG GAC Secretariat).

**5. INTERNAL GAC MATTERS**

**5a: Elections**

The GAC Chair informed the GAC that work pressures due to additional responsibilities meant that he would be stepping down as GAC Chair no later than the end of calendar year 2017.

**ACTION POINT**

1. The ACIG GAC Secretariat will formally call for nominations for the position of GAC Chair at the meeting in Johannesburg.

**5b: Managing Confidential GAC Documents**

The GAC discussed handling of GAC documents by ICANN where there is an Independent Review Process (IRP) or legal proceedings involving actions by the GAC. This was in the context of a recent request by ICANN to provide GAC documents in response to a request by parties to an IRP. An update from ICANN Legal on legal considerations was circulated to the GAC.

It was noted that ICANN appears to have control of such documents in a technical and/or legal sense as they provide the resources (including mail and web servers) for GAC’s operational arrangements. Several members had previously been unaware of this, and queried whether the same situation applies to other ICANN groups who might, for example, meet in closed session.

There was agreement that release of such materials should be subject to consultation with the full GAC membership; and that the issue requires further consideration so that the situation is clearer in future cases, and to see if governments are able to have any role in what is released and under what conditions.
ACTION POINT

Further consideration of the issue to proceed inter-sessionally (GAC Members + ACIG GAC Secretariat).

5c: Implementation of New ICANN Bylaws

The GAC resumed its discussions from the Hyderabad meeting on possible approaches to implementing ICANN Bylaws which came into effect on 1 October 2016 and which implement recommendations of the CCWG-Accountability WS 1. The key points raised were:

GAC Advice to the ICANN Board

There was agreement that GAC consensus advice (as defined in the Bylaws) should generally be the preferred outcome of GAC deliberations. Several members supported in principle some means of avoiding a small number of Members effectively exercising a veto, if a satisfactory mechanism can be found.

There was a range of views on whether consensus advice should be the only form of advice provided to the Board by GAC. The options of “GAC advice not based on consensus”; possible abstention by Members; and conveying the full range of views to the Board in the event of no consensus (as per the current Operating Principles) were discussed.

It was agreed that any options for future GAC advice need to be simple and practical.

Overall, the discussion showed some progress in finding common ground and a need to continue discussions.

GAC in the Empowered Community

Advice from ICANN Legal, to the effect that the GAC has considerable flexibility in determining its own procedures under the Bylaws, was noted.

There was agreement that the proposed approach outlined in the briefing, including development of guiding principles as well as specific procedures, was a good start to a continuing discussion. GAC Members had a range of views on how widely to define public policy considerations as a criterion for participation, the need for consensus at different levels of escalation and options for abstaining.

The GAC will consider on its merits the proposed amendment to a Fundamental Bylaw concerning Board committee arrangements, and will participate in the proposed Community Forum at ICANN 59 as appropriate.

GAC Appointments to External Bodies

The briefing paper on this issue was noted but not discussed.

ACTION POINTS

1. Options for GAC advice to the Board and GAC participation in the Empowered Community will be revised and submitted to GAC for consideration before the ICANN 59 meeting. (ACIG GAC Secretariat).
2. Options for GAC appointments to external bodies will be progressed as resources permit (ACIG GAC Secretariat + ICANN staff).

3. The GAC will participate in the procedure for considering a proposed amendment to a Fundamental Bylaw (GAC Chair + ACIG GAC Secretariat).

5d: Board-GAC Review Implementation Working Group (BGRI)

The BGRI comprises all interested GAC members (currently Switzerland, United Kingdom, Iran, United States and Egypt); and Board members ¹ Markus Kummer, Maarten Botterman, Chris Disspain, Ram Mohan (Liaison), Mike Silber and Louisewiese Van der Laan. Co-Chairs Manal Ismail (Egypt) and Markus Kummer convened a session with the GAC to review progress on the agreed work plan. The following issues were raised:

- Clarity of GAC advice. Advice should ideally include whether it is based on consensus; a rationale; and what are the intended public policy outcomes.
- The now-regular post-Communique discussion between the Board and the GAC.

At the GAC’s meeting with the Board, Markus Kummer noted that a new Board process for considering GAC advice will be discussed by the BGRI.

ACTION POINT

1. The BGRI will continue its work inter-sessionally, and requests feedback from GAC members on issues raised in the session (BGRI, GAC Members).

5e: Independent GAC Secretariat

The GAC reaffirmed its support for an independent GAC secretariat, complemented by ICANN support staff.

Switzerland provided the following summary of the funding situation:

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¹ As per Board Resolution 2016.11.08.29
It was noted that there is a funding shortfall, and that ACIG commitments will be reduced for the remainder of 2017, with attendance at face-to-face meetings limited to one ACIG staff member. Without additional funding commitments, the delivery of services by an independent secretariat is very much at risk for 2018 and beyond. The GAC leadership was tasked with urgently engaging with ICANN on extension of the current contract; and working on mid-term solutions with a view to finding sustainable funding arrangements.

**ACTION POINT**

1. GAC members to again review the requests from the Chair for possible contributions to enable continuation of the independent secretariat. ([GAC Chair + Switzerland](#)).
2. GAC leadership to (a) engage with ICANN on extension of the current contract; (b) work on mid-term solutions with a view to options for sustainable funding arrangements ([GAC leadership](#)).

**5f: Review of GAC Operating Principles**

The Working Group on the Review of GAC Operating Principles submitted proposed minor amendments to the Operating Principles, including introducing online voting for
the upcoming GAC elections, with a view to formalising those amendments according to the procedures outlined in Operating Principle 53. The amended principles will be subject to further review as part of a holistic approach that has already started in parallel. The Working Group also submitted a preliminary list of high-level principles, to be considered as subject headings for a fully revised set of Operating Principles. The GAC agreed to the Working Group’s recommendation that the Working Group be closed and that ongoing efforts to revise the GAC Operating Principles will continue within GAC Plenary sessions.

**ACTION POINT**

1. Proposed minor changes to be tabled as soon as possible, for consideration at the GAC Johannesburg meeting (ACIG GAC Secretariat).

2. Further work to refine proposed high-level principles to be progressed inter-sessionally and at ICANN 59. (GAC Chair + Egypt + India + ACIG GAC Secretariat).

6. **GAC WORKING GROUPS**

GAC Working Groups reported to the GAC as follows.

**Public Safety:** The Public Safety Working Group (PSWG) continued its engagement with the community and with various ICANN initiatives. Members of the PSWG participated in meetings of the Competition, Consumer Trust and Consumer Choice (CCT) Review, Registration Directory Services PDP Working Group, Privacy & Proxy Services Accreditation (PPSAI) Implementation Review Team, and the Security Framework Drafting Team. The PSWG will develop recommendations to the GAC in the area of sensitive strings and child protection online; continue to engage in outreach and capacity building activities; and hold bi-weekly meetings to facilitate inter-sessional work. The Working Group advised the GAC that it is considering draft procedures to guide working arrangements between the GAC and the Working Group, and hopes to present an update on this to the GAC at the Copenhagen meeting.

**Underserved Regions:** The GAC Under-Served Regions Working Group held two sessions to progress its work and provide updates on various activities as stipulated in its work plan. In order to progress ongoing work, the Working Group Co-Chairs met with:

- The ccNSO and the PTI to discuss and explore various approaches to the tasks mandated by the GAC for the Working Group to act as the first point of contact for GAC Members experiencing ccTLD delegation and re-delegation issues.
- The Development and Public Responsibility Department (DPRD) of ICANN to discuss collaboration in developing and implementing a Working Group survey for GAC Members from underserved regions.
- The Government Engagement, Global Stakeholders Engagement and Security Stability and Resiliency teams of ICANN to plan for the next series of regional capacity development sessions for GAC Members and law enforcement agencies from underserved regions in Asia Pacific, Middle East and Latin America and the Caribbean before the end of 2017.

The Working Group will continue to participate in the following activities:

- The new gTLD Subsequent Procedures PDP, specifically Work Track 1 which is dealing with "Support for Applicants from Developing Countries".
- Work by the CCT Review on developing country issues.
• CCWG on New gTLD Auction Proceeds.
• CCWG Accountability WS2 subgroup on Diversity.


Protection of Geographic & Community Names in Future Rounds of gTLDs: The Working Group reviewed a proposal to establish a set of best practices rules and the possible establishment of a repository of names. It was informed and agreed that there will be a cross-community webinar and a cross-community dialogue session during ICANN 59. The Working Group will engage in these dialogue efforts and will continue working on a possible proposal.

GAC Participation in the NomCom: The GAC Working Group on GAC Participation in the NomCom agreed that the Working Group will refine a text on “GAC criteria for NomCom” and share a new version with the GAC before the next ICANN meeting. About the possible appointment of a GAC non-voting member in the NomCom, the Working Group will review legal implications and past GAC experiences when fulfilling this role. This information, which was in relation to the expectation that the GAC representative would have to act independent of his or her government positions, will be shared with GAC when available and analysed.

Review of GAC Operating Principles: See separate item above.

DOCUMENT ADMINISTRATION

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## ATTACHMENT 1: GAC Attendees, Copenhagen, 11-16 March 2017

### GAC Members

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### GAC Observers

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ATTACHMENT 2: GAC Copenhagen Communiqué

TO BE INCLUDED