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## GOVERNMENTAL ADVISORY COMMITTEE (GAC): MINUTES OF MEETING

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### ICANN 55 Marrakech

5-10 March 2016

#### MEETING ATTENDANCE & MEMBERSHIP

Seventy-eight GAC members and twelve observers attended the meeting.

The GAC welcomed Burundi, Cambodia, Republic of Chad, Haiti, Republic of Palau and Palestine as Members.

The GAC welcomed the West African Telecommunications Regulators Assembly as an Observer.

A list of attendees is at [Attachment 1](#).

The GAC Marrakech Communiqué is at [Attachment 2](#).

Presentations used by speakers during the meeting can be accessed, where available, from the [GAC website](#) (as slides or word/PDF documents).

#### CROSS-COMMUNITY ENGAGEMENT SESSIONS

##### Meeting with ICANN Board

The GAC met with the ICANN Board and discussed the following issues:

- **ICANN CEO Selection Process:** The Board and GAC noted that selection criteria and other information on the CEO selection process was made available online.
- **Workload Timing and Management:** The Board and GAC noted that a significant number of PDPs are taking place simultaneously, causing workload problems across the community. The Board acknowledged that GAC is now working more flexibly to try to deal with this, and noted that the "B" Meeting structure will provide an opportunity for cross-community progress on substantive issues. The Board suggested that a small ad hoc group (Board, GNSO, ccNSO, GAC) could be formed to consider this.
- **Arrangements for the June 2016 ICANN Meeting:** The GAC Chair noted the "Town Hall Meeting" format as one option for cross-community dialogue at the first Policy Forum ("B" Meeting), but this will require coordination across all SOs and ACs. The Board suggested that topics of interest should be selected early. A coordination call involving SOs, ACs, the Board and ICANN Meetings Team will be arranged shortly after the Marrakech meeting.
- **ICANN and the Global Public Interest:** Tarek Kamel (ICANN staff) noted that a public session on this issue had been held in Marrakech, and that it had unfortunately clashed with the HLG. ICANN looks forward to continuing GAC engagement on this [stream of work](#) within the ICANN 5-year Strategic Plan.
- **Statement by the Government of Brazil:** Brazil read a formal statement expressing disappointment at the manner in which Brazil's positions on Internet Governance were depicted in outgoing ICANN CEO Fadi Chehade's farewell address to the ICANN Board.

Mr Chehade apologised for any misunderstanding and gave assurances that he did not intend any criticism of the very positive initiatives by Brazil.<sup>1</sup>

- **Privacy and Proxy Services Accreditation Issues PDP:** GAC informed the Board that, in response to its [recent request](#) for advice on public policy aspects of this PDP final report, more time would be needed for the GAC to formulate advice. It was agreed that the GAC would make this request in the Communiqué.
- **Future gTLD Rounds and gTLD Safeguards:** The GAC strongly argued that (as previously understood across ICANN) a thorough analysis of the most recent round should be completed before policy development work proceeds on future rounds. This should include assessment of consumer safeguards as previously recommended by GAC. The Board was prepared to consider the proposal from ALAC for a review group to examine experiences with PICs, but noted this would require volunteers from ALAC, GAC and GNSO, and the issue might be better handled by the CCT review and the PDP on Subsequent Procedures. GAC members raised several issues for consideration in policies for future rounds, including support for under-served regions, community applications, permanent protections for Red Cross Red Crescent names, and geographic names.
- **Delegation of dot Africa:** GAC members thanked the Board and CEO for their support in the delegation of the dot Africa domain, and were assured that the Board remained committed to finalising the matter as soon as possible.

## **ACTION POINTS:**

- a. Pursue workload timing and management issues with Board and GNSO, including in lead-up to and at June 2016 meeting. **(GAC Chair + ACIG + ICANN staff)**
- b. Formally indicate to Board that GAC needs more time to consider the Privacy and Proxy Services PDP Report. **(Completed: See Marrakech Communiqué)**
- c. Liaise with Board and SOs/ACs re cross-community discussions at June 2016 meeting. **(GAC Chair + ACIG + ICANN staff)**

## **Meeting with Generic Names Supporting Organisation (GNSO)**

The GAC met in open session with the Chair of the [GNSO Council](#), James Bladel, and other members of the Council.

Reports were received from the [GAC-GNSO Consultation Group](#) on: (a) Review of the GNSO Liaison to the GAC; (b) Review of the Quick Look Mechanism; (c) Early Engagement in Remaining Stages of the PDP. No objections or concerns were raised by GAC members.

There was an exchange of views on the Supplemental Final Proposal from the CCWG-Accountability, including the different ways in which GAC and GNSO were developing their inputs to the ICANN Board. This reflected the very different decision-making structures of the two organisations, with GNSO needing to reconcile several different groups within its overall structure.

With regard to GAC advice on gTLD safeguards, the GNSO indicated it probably leans more towards voluntary practices rather than mandatory ones, although it sees these issues as now part of the PDP on Subsequent Procedures.

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<sup>1</sup> See also [letter of 12 March 2016](#) from Mr Chehade to the President of Brazil.

It was noted that the [CCWG on Use of Country and Territory Names as TLDs](#) would still very much appreciate input from the GAC with regard to range of issues on geographic names.

The GNSO confirmed that GAC inputs to the PDP on Privacy and Proxy Services Accreditation had been considered, but were not included in the final report because there was not consensus support for them within the Working Group.

Long-standing GAC concerns about protections for Red Cross Red Crescent names being made permanent were noted. Developments in the PDP on IGO/INGO Access to Curative Rights Protection Mechanisms will be included in the regular updates provided to GAC by the GNSO Liaison.

It was agreed that the format of the "B" Meeting in June 2016 provides opportunities for a more extended exchange between GAC and GNSO on substantive issues, and both sides will pursue this.

#### **ACTION POINT:**

- a. Consider more extensive GAC-GNSO exchange at June 2016 meeting. **(GAC Chair + ACIG)**
- b. Provide GAC feedback on reports from GAC-GNSO Consultation Group. **(ICANN Staff + GAC members of CG)**

#### **Meeting with Country Code Name Supporting Organisation (ccNSO)**

A meeting had been scheduled between the GAC and the ccNSO. However, due to issues associated with the CCWG-Accountability work, this was cancelled at the request of the ccNSO.

#### **Meeting with At-Large Advisory Committee (ALAC)**

The GAC met with Alan Greenberg, Chair of [ALAC](#) and other members of the ALAC.

There was an exchange of views on the Supplemental Final Proposal from the CCWG-Accountability.

ALAC sought GAC's support for a proposed review of experiences with PICs and problematic strings in the current gTLD round. This has been flagged at previous meetings. GAC members expressed general support but did not wish to make specific commitments until further details were known and the matter was discussed with the Board (see "Meeting with ICANN Board", above).

GAC and ALAC noted common concerns about future gTLD policy development, including: apparent pressures from commercial interests to have the PDP on Subsequent Procedures move ahead before full analysis of the current round; an imbalance of stakeholders represented on the PDP; and the need for all relevant considerations, including but not limited to commercial ones, to be taken into account.

ALAC proposed enhanced GAC-ALAC cooperation, including through respective liaisons and cooperation at the local level. GAC members agreed that this should be explored.

## **ACTION POINT:**

- a. GAC to consider level of engagement with possible ALAC-GNSO review group on PICs best practices from current gTLD round. **(GAC + ICANN staff + ACIG)**
- b. GAC and ALAC to consider appointing respective liaisons. **(ACIG + ICANN staff)**
- c. GAC and ALAC to review opportunities for engagement at the national level. **(ACIG + ICANN staff)**

## **HIGH LEVEL GOVERNMENTAL MEETING**

The GAC representative for Morocco reported that the High Level Governmental Meeting had achieved its objectives and was well received by participants. One issue to address for future meetings is the need for greater dialogue and interactivity among participants.

The GAC expressed its appreciation to the Kingdom of Morocco for hosting this event.

## **ACTION POINTS:**

- a. Report on meeting to be prepared and published. **(Morocco + ICANN staff)**
- b. Incorporate feedback into Guidelines for HLGs. **(ACIG)**

## **IANA STEWARDSHIP TRANSITION & ENHANCING ICANN ACCOUNTABILITY**

### **ICG (IANA Stewardship Transition Coordination Group)**

The GAC noted the status of the work of the ICG, including the dependencies with the CCWG-Accountability.

### **CCWG-Accountability**

The GAC met over several sessions to discuss its response as a Chartering Organisation to the Supplemental Final Proposal on Work Stream 1 Recommendations of the Cross Community Working Group on Enhancing ICANN Accountability. The following response was agreed and sent to the Co-Chairs of the CCWG:

*“The GAC expresses its support for the multistakeholder, bottom-up approach within ICANN and reiterates its interest in participating in the post-transition phase with a view to fulfilling its roles and responsibilities.*

*The GAC wishes to express its sincere appreciation of the diligent and productive work performed by the CCWG-Accountability, its Co-Chairs, its members and all its contributors.*

*The GAC reaffirms its role as an advisory committee to the ICANN Board and within the ICANN multistakeholder environment and will continue to advise on relevant matters of concern with regard to government and public interests.*

*The GAC has considered the CCWG's proposal and supports Recommendations 1 to 10 and 12. However, there is no consensus on Recommendation 11 and the “carve-out” provision contained in Recommendations 1 and 2.*

*As regards Recommendations 1 and 2, the GAC expresses its willingness to take part in the envisioned empowered community mechanism as a decisional participant, under conditions to be determined internally.*

*While there are delegations that have expressed support for the proposal, there are other delegations that were not in a position to endorse the proposal as a whole.*

*In spite of this difference of opinions, the GAC has no objection to the transmission of the proposal to the ICANN Board."*

## **ACTION POINTS:**

- a. Decide on GAC members for CCWG WS2. **(GAC + Chair)**
- b. Encourage more GAC participants for CCWG WS2. **(GAC + ACIG)**
- c. Draft guidelines for GAC members/participants in CCWG-ACC. **(ACIG)**
- d. GAC to scrutinise ByLaws amendments from CCWG WS1. **(GAC + GAC CCWG members/participants + ACIG)**
- e. Determine modalities of GAC participation in Empowered Community. **(GAC + GAC CCWG members/participants + ACIG)**

## **PUBLIC POLICY AND SUBSTANTIVE ISSUES SESSIONS**

### **Current Round Safeguards**

The GAC noted the Board's response to advice in the Buenos Aires and Dublin Communiqués and subsequent correspondence concerning validation and verification in highly regulated sectors, best practice in PICs and the need for a clear and comprehensive scorecard on Board handling of all GAC advice in this area. It also noted that the Board had conceded that it did not follow agreed procedures for resolving non-acceptance of GAC advice.

The GAC agreed that further action on these matters at Board-GAC level would serve no useful purpose.

GAC members agreed that gTLD safeguards as a major public policy issue should be pursued through other avenues, including: the CCT Review (see below); the PDP on Subsequent Procedures; and the proposed review of PICs best practices suggested to the Board by ALAC.

## **ACTION POINTS:**

- a. Decide on extent of GAC involvement in proposed ALAC-GNSO review of PICs. **(GAC + ICANN staff + ACIG)**
- b. Ensure GAC concerns with current round are input to work on future rounds. **(See Future new gTLD Rounds, below)**

## Competition, Consumer Trust and Consumer Choice (CCT) Review

Review Team members Megan Richards (EC) and Laureen Kapin (US Federal Trade Commission) briefed the GAC on developments in the [CCT review](#), which is still at an early stage in its work.

The review will address a range of issues of concern to GAC members, including consumer safety, impact of PICs and safeguards, access to assistance and community applications.

With regard to process, all e-mail and documents will be available online. GAC members may enrol as mailing list observers.

**ACTION POINT:** GAC to be kept informed of developments. **(Laureen Kapin, US; Megan Richards, EC)**

## 2 Letter Country Codes and Country Names at the 2<sup>nd</sup> Level

The GAC again discussed with ICANN staff operational issues relating to implementation of GAC advice on 2-character labels at the second level.

Some GAC members still have concerns that the only basis for objection in Specification 5 of the Registry Agreement is consumer confusion, believing that governments should have a broader right of objection. Other members are not so concerned, particularly in the absence of any evidence of widespread abuse and/or user complaints.

Some members also noted that governments in developing countries may have difficulty in responding to proposed use of 2-character labels because of lack of resources and changes in administration.

The Chair noted there is an expectation from GAC members that procedures for proposed use of country names at the second level will be significantly different from those used for 2-character labels and give governments greater scope to object in accordance with the current provisions of Specification 5.

**ACTION POINT:** Continue to liaise with ICANN on implementation issues for GAC members. **(ICANN staff)**

## Future gTLD Rounds

The GAC reviewed the briefing on this matter provided by ACIG.

With regard to substantive issues:

- The GAC representative for the United Kingdom noted that, as discussed in recent GAC meetings, there is continuing concern in many areas about treatment of community applications for new gTLDs. The UK will work with interested GAC members to conduct further research and analysis on this matter and report back to GAC with a view to some form of contribution to the appropriate process for future gTLD rounds.
- Online child abuse was suggested as an additional issue for the Subsequent Procedures PDP.

With regard to process issues, GAC members agreed that:

- GAC should make use of public comment periods, both for individual submissions and also for agreed GAC input wherever possible.
- The PDP on Subsequent Procedures is complex and very important for public policy purposes, so it is important that as many GAC members as possible participate as Working Group members.
- Options for GAC PDP engagement included tracking and reporting at a minimum; nominated GAC lead members who could act in a liaison/reporting role; use and redirection of existing GAC work; use of procedures developed by the GAC-GNSO Consultation Group; and watching for settled issues being re-opened.

## **ACTION POINTS:**

- a. GAC co-ordination group to establish working procedures. **(Co-ordination group + ACIG)**
- b. Priority to be given to PDP on Subsequent Procedures. **(ACIG)**

## **IDNs Similarity Review Working Group**

The GAC was informed that the GAC representatives for Egypt and Greece are participating in a ccNSO Working Group that is working on guidelines to implement the Extended Process Similarity Review Panel (EPSRP) for the IDN ccTLD Fast Track Process.

## **INTERNAL GAC MATTERS**

### **Open Meetings**

All of the GAC's working sessions at the Marrakech meeting were conducted as open sessions. At the start of the Communiqué drafting session, which has previously been closed, the GAC Chair proposed that it be open, in the spirit of the open discussions on the CCWG-Accountability report earlier in the week. There was no objection to this approach.

**ACTION POINT:** Include as an issue for review of GAC Operating Principles **(ACIG)**.

### **GAC Vice Chair Elections**

The ACIG GAC Secretariat informed the GAC that, in accordance with the GAC Operating Principles, the terms of the GAC Chair and the Vice Chairs expire at the end of the first meeting in 2017. The current Chair is eligible to re-nominate for a second term as Chair. The Vice Chairs have served two terms and are not eligible to re-nominate as Vice Chairs.

ACIG will formally call for nominations during the next GAC meeting in June 2016, with nominations closing in mid-September 2016. If elections are required they will be conducted during the final GAC meeting for 2016.

### **Independent GAC Secretariat**

The GAC again confirmed its support for the current "hybrid model Secretariat", including separate funding by GAC members for the independent Secretariat role performed by ACIG.

Peru, Switzerland and the European Commission announced commitments to secretariat funding, joining existing donors Brazil, Norway and the Netherlands. The existing donors all stressed that the existing level of funding from them is not sustainable beyond existing commitments and it is essential that other GAC members be seen to be contributing.

Changes to existing administrative arrangements were noted for investigation, including a system of contributory units; direct invoicing; and use of related entities such as the ccTLD manager in the model used by Peru.

GAC members asked ACIG to prepare materials that would assist in making the case for funding, including analysis of how the hybrid model has performed; what exactly countries would get for their money; mechanics of payment; and ensuring efficient and accountable expenditure.

#### **ACTION POINTS:**

- a. Information materials to be prepared for potential donors. **(GAC Chair + ACIG)**

### **Review of GAC Operating Principles**

India joined Namibia as Co-Chairs of the Working Group on the Review of GAC Operating Principles. Terms of Reference for the Working Group were agreed by the GAC.

The GAC discussed options for proceeding. ACIG was asked to prepare a briefing paper on the issue to be tackled, prioritisation and timelines for completion, to be discussed inter-sessionally by the Working Group and then by the GAC plenary at the June 2016 meeting. Some members suggested that this work aim for first decisions on non-contentious and priority changes to be made at the June 2016 meeting. Particular priorities raised included new procedures for GAC participation in the Empowered Community (possibly as a separate track of work); open meetings, in light of the approach taken in Marrakech; and Working Group working methods.

#### **ACTION POINTS:**

- a. Secretariat to prepare "First Reading" with suggested categories, priorities & timing, including for new GAC roles arising from CCWG WS1. **(WG on OPs + ACIG)**
- b. Working Group to brief GAC with proposed decisions for Helsinki meeting. **(WG on OPs + ACIG)**

### **New ICANN Meeting Structure**

The GAC reviewed options for conducting the "B" meeting in June 2016. Members agreed that the following should be factored in if possible:

- A commitment to the 4-day meeting model without extra days, to give the new structure a chance to show what it can do.
- A balance of GAC internal work and external stakeholder engagement.
- Bilateral and multilateral stakeholder engagement, with appropriate coordination with other SOS and ACs.
- Opportunities for GAC capacity-building and informal social interaction.

The ICANN Meetings Team noted that developments would be made known through a [dedicated wiki](#).

## **ACTION POINTS:**

- a. Agree what the key issues for cross-community discussion will be for the Helsinki meeting, in order to draft the schedule **(SO/AC Chairs + ICANN Staff + ACIG)**
- b. Draft GAC schedule for Helsinki meeting to be prepared for discussion/agreement by GAC **(GAC + ACIG + ICANN staff)**
- c. Approach to Meeting B Briefing documents and formal output document to be agreed by the GAC and prepared by ACIG **(GAC + ACIG)**

## **Asia Pacific Region Issues**

The GAC discussed barriers to full and effective participation by members from the Asia Pacific region, including long travel times, resourcing issues (bandwidth, out of hours access to facilities) and scheduling of inter-sessional virtual meetings.

Suggestions for action included:

- Creation of an Asia Pacific contact group within GAC, with a face-to-face meeting at the June 2016 meeting.
- A greater focus on capacity building, both at the regional and ICANN levels.
- Special efforts by the host country for meetings to facilitate visas, using the approach taken by Morocco as a model.
- Support by ACIG for specific briefings if requested.
- Involvement of the GAC Working Group on Underserved Regions.

## **ACTION POINTS:**

- a. Underserved Regions Working Group to review and report on options for greater engagement by GAC members from Asia and the Pacific, including: capacity building, support networks, information management & timezone issues. **(Co-Chairs, Underserved Regions WG)**
- b. GAC Tech Taskforce to incorporate the suggestion for greater online mechanisms for engagement back to the GAC Website Development Project **(ACIG)**

## **GAC Website Update**

The GAC was briefed by ICANN support and technical staff and ACIG on progress on replacing the GAC website with a new open source platform that supports GAC business needs and also integrates with the broader ICANN environment. There was a walk-through of mock-up pages covering meeting support, document access and communiqué drafting.

Feedback from GAC members was positive and covered suggestions for better acronym explanation and glossaries, and photos of GAC members.

## **ACTION POINTS:**

- a. Provide GAC feedback to ICANN ICT from the Marrakech session and confirm the requirements can be built in to the new system. **(ACIG – Complete)**
- b. GAC Representatives to advise if they wish to participate in the GAC Technology Task Force (TTF) to undertake website testing. **(GAC)**

## GAC WORKING GROUPS

The GAC Chair stressed the need for Working Groups to coordinate their work with the GAC as a whole, and in particular to ensure GAC is kept informed of, and has enough time to consider, work that may require GAC endorsement before going on the public record.

### Public Safety

The Working Group on Public Safety reported that it had worked inter-sessionally on capacity building for law enforcement agencies, and will continue to do so with the Underserved Regions Working Group; the Next Generation Registration Directory Services PDP; WHOIS case studies; and the security framework for the Registry Accreditation Agreement. A successful joint session with the Numbering Resource Organisation had been held in Marrakech. The need for more time for the PSWG and GAC to respond to the final report of the PDP on Privacy and Proxy Services was noted and it was agreed to reflect this in the Communiqué.

### Human Rights and International Law

The terms of reference for the Working Group on Human Rights and International Law were agreed by the GAC. The Group is developing a Work Plan, with initial suggestions for topics including new gTLDs; the development of a human rights framework by the CCWG-Accountability Work Stream 2; WHOIS; internationalised domain names and intellectual property rights. A joint meeting was held in Marrakech with the Cross Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights.

### Underserved Regions

The Working Group on Underserved Regions reported that it is finalising the survey on government relationships with ccTLDs. The Group is planning new work on capacity building. The Cook Islands was appointed as an additional Co-Chair of the Group.

### Geographic Names

The Working Group on the Protection of Geographic and Community Names in Future Rounds of New gTLDs reported that it met in Marrakech and is continuing to develop options for contributing to the PDP on subsequent procedures; and ICANN work on the public interest. Several GAC members suggested that an inter-sessional online GAC Plenary on this issue would be useful in advancing the issues.

### NomCom

The Working Group on Participation in the Nominating Committee (NomCom) reported that it did not meet in Marrakech. Terms of reference for the Group were agreed by the GAC. The Group will proceed to finalise a Work Plan.

## ACTION POINTS:

- a. GENERAL: All WGs to ensure compliance with GAC guidelines and ensure GAC is informed of inter-sessional developments. **(WG Chairs)**
- b. PSWG: Prepare GAC position on Privacy and Proxy Services PDP for GAC decision at June 2016 meeting. **(PSWG Co-Chairs)**
- c. Geographic Names: Consider special GAC online inter-sessional discussion to review developments. **(Argentina)**

**DOCUMENT ADMINISTRATION**

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**ATTACHMENT 1**

**LIST OF GAC ATTENDEES: MARRAKECH, 5-10 MARCH 2016**

| Members  |                       |
|--|-----------------------|
| Afghanistan                                    | Korea                 |
| African Union Commission                       | Kyrgyz Republic       |
| Argentina                                      |                       |
| Australia                                      | Madagascar            |
| Austria  | Mexico                |
|  | Morocco               |
| Barbados                                       |                       |
| Belgium  | Namibia               |
| Brazil   | Netherlands           |
|  | New Zealand           |
| Cameroon                                       | Niue                  |
| Canada   | Norway                |
| Chad   |                       |
| China  | Pakistan              |
| Colombia                                       | Palestine             |
| Comoros  | Paraguay              |
| Cook islands                                   | Peru                  |
| Costa Rica                                     | Portugal              |
| Cote d'Ivoire                                  |                       |
|  | Romania               |
| Democratic Republic of Congo                   | Russian Federation    |
| Denmark  | Rwanda                |
| Dominican Republic                             |                       |
|  | Sao Tome and Principe |
| Egypt  | Senegal               |
| European Commission                            | Singapore             |
|  | Slovenia              |
| Finland  | Spain                 |
| Former Yugoslav Republic of Macedonia          | Sudan                 |
| France   | Swaziland             |
|  | Sweden                |
| Gabon  | Switzerland           |
| Georgia  |                       |
| Germany  | Chinese Taipei        |
|  | Thailand              |
| Haiti  | Timor-Leste           |
| Hong Kong Special Administrative Region, China | Turkey                |
| Hungary  | Turkmenistan          |
|  |                       |
| India  | Uganda                |
| Indonesia                                      | Ukraine               |
| Iran   | United Arab Emirates  |
| Ireland  | United Kingdom        |
| Italy  | United States         |
|  |                       |
| Japan  | Vatican City State    |
| Kenya  | Venezuela             |
|  | Viet Nam              |

| Observers  |  |
|--|--|
| World Intellectual Property Organisation (WIPO)      | European Broadcasting Union (EBU)                  |
| Organisation Internationale de la Francophonie (OIF) | Council of Europe                                  |
| Caribbean Telecommunications Union (CTU)             | Economic Community of West African States (ECOWAS) |
| International Red Cross Red Crescent Movement (ICRC) | Commonwealth Telecommunications Organisation       |
| Organisation for Islamic Cooperation (OIC)           | INTERPOL   |
| World Bank   | UNESCO   |

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## ATTACHMENT 2

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### GAC MARRAKECH COMMUNIQUÉ

9 March 2016

#### GAC Communiqué – Marrakech, Morocco<sup>1</sup>

##### I. Introduction

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Marrakech, Kingdom of Morocco during the week of the 5<sup>th</sup> of March 2016.

Seventy-six (76) GAC Members and twelve (12) Observers attended the meeting.

##### **High Level Governmental Meeting**

The GAC expressed its sincere appreciation to the Kingdom of Morocco and to His Excellency Moulay Hafid Elalamy, Minister of Industry, Trade, Investment and Digital Economy for hosting the High Level Governmental Meeting on 7 March 2016. The meeting enabled Ministers and senior officials to assess the transition of the IANA stewardship function from the U.S. Government to a community based arrangement, including greater accountability of ICANN; reaffirmed the importance of governments as part of the ICANN community, including through the GAC; and identified opportunities for developing countries in the domain name system.

The Chair of the meeting, His Excellency Moulay Hafid Elalamy, Minister of Industry, Trade, Investment and Digital Economy, presented a Chair's Summary and informed the GAC that he will subsequently submit a chairman's report under his responsibility.

##### **ICANN CEO**

The GAC expressed its sincere appreciation for the service rendered to the ICANN community by outgoing ICANN President and CEO Mr. Fadi Chehadé, and wishes him well in his future endeavours. The GAC also warmly welcomes the incoming ICANN President and CEO Mr. Göran Marby.

##### II. Inter-Constituency Activities & Community Engagement

###### 1. Meeting with the ICANN Board

The GAC met with the ICANN Board and discussed the following topics:

- ICANN CEO selection process
- Timing of work and general workload across the community
- Board intentions for the first "B" meeting
- ICANN and the global public interest
- Privacy and Proxy Services Accreditation Issues PDP
- Future gTLD rounds – timing

- Board-GAC exchange on gTLD safeguards

## **2. Meeting with the Generic Names Supporting Organization (GNSO)**

The GAC met with GNSO Council members and reviewed the work of the GAC-GNSO Consultation Group, including reports regarding the GNSO Council Liaison to the GAC and opportunities for GAC early engagement in Policy Development Processes (PDPs).

There was an exchange of views on the Supplemental Final Proposal from the CCWG-Accountability, including ways in which the GAC and the GNSO were developing their input to the ICANN Board.

It was agreed that the new format of the ICANN “B” Meeting provides an opportunity for more substantive GAC-GNSO discussions and this will be considered for the ICANN meeting in June 2016.

In response to GAC Members’ concerns, the GNSO noted that GAC input to the PDP on Privacy and Proxy Services Accreditation Issues had been given due consideration, but there had not been consensus support for its inclusion in the final report.

The GAC recalled its previous advice to the ICANN Board that permanent protection of Red Cross, Red Crescent and Red Crystal designations and names should be implemented as soon as possible. The GAC expects, therefore, that the current discussions involving the GNSO and ICANN staff will resolve the differences between GNSO policy recommendations and the GAC’s advice on this matter.

## **3. Meeting with the At-Large Advisory Committee (ALAC)**

The GAC met with members of the At-Large Advisory Committee and discussed:

- Their respective processes for responding to the Supplemental Final Proposal of the CCWG-Accountability.
- New gTLD safeguards: The GAC expressed interest in a possible ALAC-GNSO review of problematic strings and PICs.
- Future gTLD rounds: The GAC and the ALAC agreed that appropriate review and analysis of the current gTLD round should occur before policy development for future rounds advances substantially.
- Enhanced GAC-ALAC cooperation: The possibility of mutual liaisons and engagement at the national level will be explored.

### III. Internal Matters

#### 1. New Members

The GAC welcomed Burundi, Cambodia, Haiti, Palestine, Republic of Palau and Chad as new Members, and the West African Telecommunications Regulators Assembly (WATRA) as a new Observer. This brings the number of GAC Members to 162, and the number of observers to 35.

#### 2. GAC Working Groups

The GAC continues to pursue specific areas of work through its Working Groups, which cover the following areas:

- Protection of geographic names in future rounds of new gTLDs

The Geographic Names Working Group met and discussed its review of an updated work plan, a new version of its "Public Interest" document, agreement to open the email list to interested members of other SOs/ACs, and analysis of concerns expressed during a previous round of public comments.

- Public safety

The Public Safety Working Group (PSWG) continues to focus on and engage in various public safety related activities including consumer protection, DNS and IP address WHOIS accuracy and outreach to ICANN stakeholder groups, among others.

The PSWG has been engaging in several GNSO PDPs and ICANN Reviews including on Privacy & Proxy Services Accreditation Issues, Next Generation Registration Data Services, the Registry Agreement Security Framework (Spec 11), and the New gTLD Competition, Consumer Choice and Consumer Trust Review.

The PSWG held a joint workshop with the Number Resource Organization (NRO) to initiate discussions on enhancing IP WHOIS accuracy

- Human Rights and International Law

Following endorsement by the GAC Plenary of the Human Rights and International Law Working Group's (HRIL WG) Terms of Reference on 9 March 2016, the HRILWG will develop a work plan by end-April. An update on CCWG-Accountability Recommendation 6 was provided by CCWG Co-Chair Mr. Leon Sanchez. An information exchange was held with the Cross Community Working Party on ICANN's Corporate and Social Responsibility to Respect Human Rights (CCWP HR).

- Underserved Regions

Cook Islands was appointed as a Co-Chair of the Underserved Regions Working Group.

- GAC participation in the ICANN Nominating Committee (NomCom)

Terms of reference for the NomCom Working Group were adopted by the GAC.

- Review of GAC Operating Principles

The Working Group on GAC Operating Principles is scheduled to meet on Thursday 10 March.

#### 3. Independent GAC Secretariat

The GAC expressed its appreciation of the outstanding service and support provided by its hybrid secretariat model, consisting of ICANN GAC Support staff and the independent ACIG GAC Secretariat. The enhanced secretariat support has increased and improved the GAC's ability to

provide advice to the Board and to work more effectively with other members of the ICANN community.

The GAC wholeheartedly thanked Brazil, Norway and the Netherlands for their generosity in providing funds to support the delivery of services by the independent ACIG GAC Secretariat and discussed how best to ensure the financial sustainability of the donor funding model. Peru, the European Commission and Switzerland announced that they will make financial contributions, for which the GAC is very grateful. Other GAC members are also considering becoming donors to ensure that the high quality of independent secretariat services currently received by the GAC is maintained and, if necessary, can be expanded.

#### **IV. Transition of U.S. Stewardship of IANA and Enhancing ICANN Accountability**

The GAC agreed on the following response to the Supplemental Final Proposal on Work Stream 1 Recommendations of the Cross Community Working Group on Enhancing ICANN Accountability:

*“The GAC expresses its support for the multistakeholder, bottom-up approach within ICANN and reiterates its interest in participating in the post-transition phase with a view to fulfilling its roles and responsibilities.*

*The GAC wishes to express its sincere appreciation of the diligent and productive work performed by the CCWG-Accountability, its Co-Chairs, its members and all its contributors.*

*The GAC reaffirms its role as an advisory committee to the ICANN Board and within the ICANN multistakeholder environment and will continue to advise on relevant matters of concern with regard to government and public interests.*

*The GAC has considered the CCWG's proposal and supports Recommendations 1 to 10 and 12. However, there is no consensus on Recommendation 11 and the “carve-out” provision contained in Recommendations 1 and 2.*

*As regards Recommendations 1 and 2, the GAC expresses its willingness to take part in the envisioned empowered community mechanism as a decisional participant, under conditions to be determined internally.*

*While there are delegations that have expressed support for the proposal, there are other delegations that were not in a position to endorse the proposal as a whole.*

*In spite of this difference of opinions, the GAC has no objection to the transmission of the proposal to the ICANN Board.”*

#### **V. Other GAC Discussions**

##### **1. gTLD Safeguards: Current Round**

The GAC noted the Board’s response to recent and outstanding GAC advice on gTLD safeguards, including a Resolution of the former New gTLD Program Committee of 18 October 2015, a Resolution of the Board of 3 February 2016 and a letter of 19 February 2016 to the GAC Chair.

Further work by the GAC will focus on ensuring that existing gTLD safeguards (including those based on previous GAC advice) are maintained and improved. The GAC encourages work by the GNSO and the ALAC to review Public Interest Commitments (PICs) for strings corresponding to highly regulated sectors, including through a dedicated group if possible, and will work through the range of processes considering future gTLD rounds, to ensure public policy considerations are taken into account.

With regard to process, the GAC notes that the Board acknowledges that the agreed Process for Consultations “was not formally observed in this instance.” Like the Board, the GAC looks forward to work on improving Board-GAC communications through the Board-GAC Review Implementation Working Group (BGRI-WG).

## **2. CCT Review**

GAC Members of the Competition, Consumer Trust and Consumer Choice Review Team (CCT RT) updated the GAC on the Review Team work. The GAC noted that a range of public policy issues are within the scope of the review, including impact of the new gTLD program on consumer trust and the effectiveness of safeguards in that context, and on competition and consumer choice aspects. GAC Members were invited to submit their views either to the Review Team’s GAC Members or at the CCT Review public meeting at ICANN 55 and were reminded of the possibility to follow the work as observers.

## **3. Community Applications**

The GAC noted the response of the ICANN Board to GAC advice in the Dublin Communiqué concerning community applications for new gTLDs and the Community Priority Evaluation process. The GAC intends to undertake data gathering and analysis on experiences with the current new gTLD round in this regard and to make appropriate contributions to the GNSO PDP on New gTLD Subsequent Procedures and to the CCT Review.

## **4. 2-character labels at the second level**

The GAC discussed with ICANN staff operational issues relating to implementation of GAC advice on 2-character labels at the second level. Several suggestions for improvement were provided to ICANN.

## **VI. GAC Advice to the ICANN Board<sup>2</sup>**

### **1. Future gTLDs Rounds : Public Policy Issues**

GAC Members reviewed the public policy aspects of current work across the ICANN community that impacts on the policy framework for future rounds of new gTLDs. This work includes the PDP on Subsequent Procedures, the CCT Review, the Program Implementation Review, Reviews of Root Stability and the Trademark Clearing House; and development of metrics to assess gTLD developments.

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<sup>2</sup> 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>

The GAC recalls the ICANN-wide shared understanding that development of a policy framework for future new gTLD rounds should follow a logical sequence of review of the current round and associated issues so that this can inform policy development through GNSO-based community processes. The GAC notes with concern that current PDP scheduling may put this logical sequencing at risk, potentially leading to policy development work that does not have access to the most up to date and comprehensive data and analysis.

- a. The GAC therefore reiterates previous advice to the Board to:**
  - i. ensure that a proper assessment of all relevant aspects of the new gTLD program is made, taking into account feedback from all stakeholders, and that development of future rounds should be based on the conclusions of this assessment.
- b. The GAC advises the Board to:**
  - i. give particular priority to awareness raising in, and facilitating applications from, underserved regions.

Having noted these concerns, GAC members will nevertheless make efforts to participate in open processes such as PDPs. The GAC, with the support of its independent Secretariat, will strive to provide input to all relevant work on future gTLD policies at an early stage and relevant later stages. In view of the overall community workload, the GAC notes the importance of allowing sufficient time for appropriate engagement.

## **2. Privacy and Proxy Services Accreditation Issues**

The GAC thanks the GNSO Privacy & Proxy Services Accreditation Issues Policy Development Process Working Group for its significant effort in producing its Final Report, which contains many beneficial recommendations. The GAC submitted comments on the Initial Report, reflecting public policy issues, which are attached at Annex A.

The GAC welcomes the request by the Board, in a letter dated February 19<sup>th</sup> 2016, to submit any public policy issues raised by the recommendations set forth in the Final Report.

Consistent with the GAC's prior comments on the initial report and the 2007 GAC Principles regarding gTLD WHOIS Services, particularly Principle 3 regarding assisting law enforcement authorities in investigations, and Principle 6 regarding contributing to user confidence in the Internet by helping users identify persons or entities responsible for content and services online, the GAC believes that the recommendations set forth in the Final Report may raise certain public policy issues regarding consumer safety and trust.

- a. The GAC advises the Board to:**
  - I. allow sufficient time for GAC consideration of possible advice on these important public policy issues and requests that the Board meets with the GAC prior to considering adoption of the Privacy

Proxy Services Accreditation Issues PDP Final Report. The ICANN 56 meeting would be an appropriate opportunity to consider these issues further

### **3. Work scheduling and workload management**

The GAC is concerned that there continues to be a high number of concurrent work programs across ICANN with significant workload implications for the GAC and the wider community. For example, existing reviews on the first round of new gTLDs, preparation for subsequent rounds, and a wide range of work on WHOIS issues have continued without timeline adjustment despite the high priority work generated by the IANA Stewardship Transition Process.

The GAC acknowledges the need to consider the different priorities of each of the SOs and ACs.

#### **a. The GAC advises the Board to:**

- I. facilitate an exchange at ICANN 56 between all the SOs and ACs regarding how work requiring community input is scheduled and managed by the respective SO and AC communities, particularly for issues of broad interest across the community as a whole. The GAC considers that a joint SO/AC review will permit the Board to better assess the level of concurrent work the community can manage. This exchange should include consideration of:
  - i. how different community priorities are balanced; and
  - ii. how this process can maximise community participation in policy development processes.

## **VIII. Next Meeting**

The GAC will meet during the period of the 56<sup>th</sup> ICANN meeting, scheduled for the 27<sup>th</sup> to 30<sup>th</sup> of June 2016.

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## **Annex A: GAC Public Safety Working Group (PSWG) Comments to Initial Report on the Privacy & Proxy Services Accreditation Issues Policy Development Process<sup>3</sup>**

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After review of the Initial Report on the Privacy & Proxy Services Accreditation Issues Policy Development Process, the PSWG provides the following comments and recommendations:

### Distinction between Commercial and Non--Commercial Users:

- In order to promote transparency and consumer safety and trust, the PSWG recommends against permitting websites actively engaged in commercial transactions – meaning the collection of money for a good or service – to hide their identities using Privacy/Proxy (P/P) Services.<sup>2</sup> This includes domains used for websites that directly collect payment data, as well as for sites that promote a transaction but directly link to other sites that execute the transaction. The public is entitled to know the true identity of those with whom they are doing business. Indeed, many nations have laws specifically mandating such transparency in commercial and business transactions.
- P/P services should only be permitted for those domains that are not actively conducting business transactions, as detailed in the above. Any person or entity that engages in commercial transactions invites the public to trust them with their funds and sensitive financial account information. Hence, any privacy interest should be balanced with the public's right to know the true identity of those with whom they are doing business.

### Transparency and Accountability:

- The PSWG supports the conclusion that ICANN should ensure transparency by publishing and maintaining a publicly accessible list of all accredited P/P service providers, with all appropriate contact information. Registrars should provide a web link to P/P services run by them or their Affiliates, and P/P service providers should declare their Affiliation with a registrar (if any) as a requirement of the accreditation program.
- The PSWG supports the conclusion that a “designated” rather than a “dedicated” point of contact will be sufficient for abuse reporting purposes and a designated point of contact should be “capable and authorized” to investigate and handle abuse reports, consistent with RAA Section 3.18.
- The PSWG agrees that proxy and privacy services should be treated equally for the purpose of accreditation process.
- The PSWG concurs with the P/P WG preliminary conclusion that domain name registration involving P/P service providers should be clearly labelled as such in the WHOIS.
- The PSWG recommends that P/P customer data should be validated in compliance with the RAA Cross--Validation requirement, pursuant to RAA WHOIS ACCURACY PROGRAM SPECIFICATION, paragraph 1 “... Registrar will, with respect to both WHOIS information and the corresponding customer account holder contact information related to such Registered Name...” validate the information provided.

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<sup>3</sup> These comments were produced by an internal GAC Working Group and do not represent a consensus GAC view.

- PSWG believes that proxy/privacy services should continue to be required to publish their relevant terms of service and to abide by those published terms (as currently provided in the Interim Specification to the 2013 RAA).

#### Definition of Law Enforcement

- “Law Enforcement Authority” is defined as “law enforcement, consumer protection, quasi--governmental or other similar authorities designated from time to time by the national or territorial government of the jurisdiction in which the privacy or proxy service provider is established or maintains a physical office.” To the extent this definition could be viewed as suggesting that P/P service providers need only respond to law enforcement authorities within their own jurisdiction, the PSWG urges the P/P Working Group to consider revising this definition. Malicious conduct involving domains often takes place across borders and the definition of law enforcement should recognize the multi--jurisdictional aspects of investigative and enforcement activities in order to promote protecting the public no matter where they are located. If such revisions are made, the Working Group should consider a requirement that a P/P service consult with its local law enforcement authorities in the event it receives a request from a foreign authority (to ensure that the local authorities believe that the request is a proper request from a recognized foreign authority)

## Confidentiality of Law Enforcement (including Consumer Protection) Requests

- Although the Initial Report did not reflect an agreement on the issue of whether P/P Service Providers should disclose requests from law enforcement, the PSWG appreciates the Initial Report's recognition of the "need for confidentiality in relation to an ongoing LEA investigation." Section 1.3.2 at p. 15. Law Enforcement Agency and Consumer Protection Agency (collectively "LEA") requests are directly related to ongoing investigations. Notifications to customers, who may be the alleged criminal or violator, could threaten not only the effectiveness of the investigation but could also threaten the safety of individuals. Accordingly, the PSWG urges P/P Working Group to require P/P Service Providers to keep LEA requests confidential as required and/or permitted by local laws.
- Requests by LEAs are directly related to sensitive investigations involving violations of the law. Many malware and other seemingly less critical violations have hidden connections to more malevolent criminal enterprises. Given the variety of subject areas for LEA investigations, it would be virtually impossible to confine the topics of potential investigations into select categories for the purposes of P/P Services. If a P/P provider were to provide notice of a LEA investigative request to the target of the request, remedies for such disclosure by the P/P provider would be determined by the respective national, state, provincial, or other governing laws.
- The confidentiality of individual requests does not impair the P/P service providers in publishing statistics in the form of transparency reports on the law enforcement requests received.

## **Conclusion**

Public safety authorities, including law enforcement and consumer protection agencies, play a vital role in responding to incidents of crime, victim distress, potential harm, and in worst case scenarios, victim identification. To the extent, privacy services are used to hide the actors responsible for malicious activities or obscure other pertinent information, there must be reasonable mechanisms in place for public safety authorities to unmask bad actors and obtain necessary information. We urge the P/P Working Group to take into account the law enforcement need to obtain information cloaked by privacy services in order to continue to protect the public from malicious conduct that involves internet domains.