# GAC/ICANN Board Communique Clarification Call - ICANN79 Communiqué

8 Apr. 2024 - 1300 UTC

In the spirit of issue spotting and candid information exchange, these high-level summary notes are intended to reflect the general nature of the discussion during the GAC/ICANN Board Communique Clarification Call - ICANN78 Communique. Certain specific aspects of the meeting discussions are provided to enable understanding of the flow and context of the discussions.

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### I. Introduction

**Tripti Sinha** (ICANN Board Chair), **Nicolas Caballero** (GAC Chair) and **Becky Burr** (ICANN Board) greeted the participants and reminded them that the purpose of these calls is for the ICANN Board to make sure it understands GAC Advice, in this case as issued in the GAC San Juan ICANN79 Communiqué.

It was noted that this call would also be an opportunity to continue previous ICANN Board/GAC discussions and address topics that remained to be discussed, namely: the Name Collision Analysis Project (ICANN79 San Juan Board/GAC meeting), as well as DNS Abuse and the Emergency Assistance Program for Continued Internet Access (ICANN78 GAC Hamburg Communiqué Issues of Importance).

II. Review of ICANN79 GAC Consensus Advice and Clarifying Discussion on the New gTLDs Applicant Support Program (ASP)

### GAC Advice §1.a.i

- a. The GAC advises the Board:
  - i. To ensure the Applicant Support Program (ASP) focuses on facilitating global diversification of the new gTLD application program, bearing in mind historical community calls for a 'remedial round', recalling ICANN77 GAC advice.

# **RATIONALE**

The GAC stresses that facilitating global diversification is essential to the success of the ASP, and refers the Board to the GAC definition of underserved regions

# **Board Comment(s):**

The Board notes Affirmation 1.3 in the the SubPro Final Report which states that the primary purposes of new gTLDs are to foster diversity, encourage competition, and enhance the utility of the Domain Name System (DNS). The ASP is one component of the Next Round's approach to facilitating global diversification. Making the DNS more accessible for communities globally by implementing Internationalized Domain Names (IDNs), raising their awareness, and enabling their utility by promoting their universal acceptance, also contribute to global diversification of the new gTLD program.

There are communications efforts underway to raise awareness of IDNs and Universal Acceptance (UA), as well as work to develop a robust global communications and outreach strategy for the Next Round as a whole that will include a specific focus on awareness creation and outreach to potential ASP applicants.

# **Discussion**

**Becky Burr** added to the Board comments that the ICANN Board believes it is quite aligned with the GAC on the importance of Applicant Support for promoting diversity in New gTLD applications.

**Rosalind KennyBirch** (United Kingdom) expressed appreciation for the Board comments, emphasizing that this is a high priority matter for the GAC. She also noted that the GAC's participants in the Subsequent Procedures Implementation Review Team (IRT) will continue to engage in the work on this area.

#### GAC Advice §1.a.ii

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

ii. To publish a comprehensive ASP communications and outreach strategy and associated implementation plan for review and comment by the community with itemized costs, detailed scope and clear metrics of success identified, to complement the overview of the broader communications plan for the next round of new gTLDs included in the Implementation Plan. This ASP communications and outreach strategy must include details on building awareness of Universal Acceptance and Internationalized Domain Names and should leverage community connections to ensure underserved regions are reached.

# **RATIONALE**

The GAC is of the view that global communications and outreach are essential to encourage organizations in underserved regions to apply through the ASP. Highlighting the economic benefits of operating a gTLD is particularly pertinent to helping organizations understand the merits of applying.

# **Board Comment(s):**

The Board understands that the GNSO Guidance Process (GGP) for Applicant Support issued a guidance recommendation related to "Communications and Outreach/Awareness." This included implementation guidance, indicators of success, and metrics to measure success. The GGP's guidance recommendations are still pending Board consideration. The Board understands that ICANN org staff is aware of and has taken the GGP guidance recommendations into consideration as it continues to plan for implementation, so that if and when the recommendations are adopted by the Board in accordance with the ICANN Bylaws (Annex A-2) these can be implemented.

In addition, the Board understands that ICANN org is conducting an ongoing campaign to create awareness of IDNs and UA as a first phase of work leading into the Next Round Communications and Outreach strategy. The Board anticipates that org will build upon that work to craft a holistic communications and outreach plan for the next round that covers all the key elements including ASP, Registry Service Provider (RSP) — taking into account potential overlap between IDN and ASP target audiences.

ICANN org plans to share a Communications Planning Document, including overall outreach strategy and success metrics, by early May.

ICANN org believes there's an opportunity to leverage the community to ensure broad distribution of information related to the next round, including material they can share with their constituencies.

#### **Discussion**

**Becky Burr** added to the Board comments that the ICANN Board hopes to wrap up its deliberations on the GGP guidance recommendations in short order. She noted that the ICANN Board is closely following the ongoing campaign to create awareness of IDNs and Universal Acceptance, emphasizing the importance of this outreach to the ICANN Board. She noted that the ICANN80 meeting in Kigali, Rwanda would be an opportunity to discuss the Communication Planning Document that ICANN is planning to share by early May,

and encouraged the GAC, along with other stakeholders, to help in raising awareness on Universal Acceptance, IDNs and the Next Round of New gTLDs, including its Applicant Support Program.

Rosalind KennyBirch welcomed the publication of the Communications Planning Document by early May.

**Susan Chalmers** (United States) noted that in light of the importance of UA and of raising awareness of IDNs, the GAC should consider adding these matters on the Agenda of the upcoming High Level Government Meeting (HLGM) in Kigali, under Agenda Item 3 dedicated to meaningful connectivity.

#### **GAC Advice §1.a.iii**

- a. The GAC advises the Board:
  - iii. To specify how the reported fund for the ASP will specifically be used to support applicants whether through offsetting reduced application fees for applicants, funding additional means of support, or a mix of both and undertake an assessment of the appropriate budget to support the program and the associated communications and outreach strategy in the context of inflation trends since the launch of the last ASP, which was funded with 2 million USD during the 2012 new gTLDs application round.

#### **RATIONALE**

Adequate funding will be essential for a successful ASP. The GAC is concerned that if the same amount is allocated to the ASP as that of the 2012 round it will not be sufficient to ensure that all successful applicants can benefit from the ASP, particularly in the context of inflation trends over the past decade. Moreover, the application fee will increase to approximately 240,600 USD - an increase of 30% from 185,000 USD. As such, funding for the ASP should be increased by a minimum of the same proportion.

# **Board Comment(s):**

The Board notes that during ICANN79, ICANN org staff indicated that the ASP Funding Plan will be shared with the Implementation Review Team in mid-April. The Board anticipates that the ASP funding plan will include the aspects articulated in the GAC advice. In the interim, the draft ASP Handbook that was out for public comment includes a list of financial and non-financial supports that will be made available to qualified supported applicants. Regarding additional means of support, ICANN org has continued planning efforts for the options presented to the GNSO Small Team Plus—recognizing that supplemental Recommendation 17.2 is still pending Board consideration.

#### **Discussion**

**Becky Burr** noted that the ICANN Board is certainly aware of the recommendations, guidance and advice it received on the range of potential vehicles for Applicant support, not only from the GAC, but also from the wider ICANN community. She indicated that the Board has been considering a broad range of options to ensure that applicants eligible under the ASP are successful. She expressed the view that the ICANN Board and the GAC were in alignment on this matter.

**Nigel Hickson** (United Kingdom, GAC Vice Chair) wondered whether the cash amount of financial support provided by ICANN to the Applicant Support Program would be announced.

**Becky Burr** indicated that this would not be part of the ASP Funding Plan, which would however provide a better perspective on the range of support that will be made available for the program, and which would also provide some comfort regarding the commitment of the ICANN Board and org to a robust Applicant Support Program.

# GAC Advice §1.a.iv

- a. The GAC advises the Board:
  - iv. To develop a holistic approach to the ASP by strongly considering implementation of the ALAC's ASP incubator proposal, recalling the GAC's ICANN78 text.

# **RATIONALE**

Discussions within the GAC throughout ICANN79 on the ASP, including a bilateral meeting with the ALAC, highlighted the importance of a holistic program that includes non-financial and financial support for applicants..

#### **Board Comment(s):**

Regarding additional means of support, ICANN org has continued planning efforts for the expanded scope of support options presented to the GNSO Small Team Plus, taking into account the ideas generated by that group and recognizing that supplemental Recommendation 17.2 is still pending Board consideration.

### **Discussion**

**Becky Burr** confirmed that the ICANN Board is considering the ALAC proposal for an ASP incubator in the context of its deliberations on supplemental Recommendation 17.2 and shared the Board's expectation that an expanded scope of applicant support options would be made available. She noted the ICANN Board's understanding of this advice as drawing the Board's attention to supporting applicants throughout the process, and expressed the Board's agreement that, for it to be effective, applicant support should extend beyond reducing the cost of applying for a New gTLD.

# GAC Advice §1.a.v

- a. The GAC advises the Board:
  - v. To consider substantially reducing or eliminating ongoing ICANN registry fees for successful applicants for at least five years, and consider further flexibility thereafter according to applicant needs, recalling ICANN77 GAC advice.

# **RATIONALE**

At ICANN77, the GAC advised that eliminating ongoing ICANN registry fees would help to ensure organizations that are successful in applying for applicant support receive support not only with their application, but are also supported during the period it takes to get a new top level domain up and running. ICANN's Survey of Globally Recognized Procedures for Financial Assistance Programs supports this conclusion, highlighting that "supported applicants may have limited access to the financial resources necessary for long-term sustainability. To combat this issue, Providers of Financial Support can provide direct or indirect additional financial assistance post-award". The survey cites guidance suggesting that capacity development is 'patient work' that "typically requires an investment of three to five years before meaningful improvements can be achieved". This advice is intended to respond to the Board's question asking that the GAC specify whether 'eliminating ongoing ICANN registry fees' was envisioned for a specific period of time.

# **Board Comment(s):**

Regarding additional means of support, ICANN org has continued planning efforts for the expanded scope of support options presented to the GNSO Small Team Plus, taking into account the ideas generated by that group and recognizing that supplemental Recommendation 17.2 is still pending Board consideration.

# **Discussion**

**Becky Burr** confirmed that a broad range of options for applicant support is being considered following similar recommendations from several parts of the Community, including curtailing ongoing fees after delegation of a New gTLD.

# GAC Advice §1.a.vi

- a. The GAC advises the Board:
  - vi. To explore the potential of leveraging (including contracting and financing the services of), a platform to which new gTLDs, supported through the ASP, could move to eventually operate their own back-end services, recalling ICANN77 GAC advice.

#### **RATIONALE**

A Backend Registry is the mandatory technical platform to operate a domain name extension. The backend registry allows accredited registrars to technically sell domain names for each top-level domain. Support therefore could be provided to foster the establishment of technical registry platforms to assist ASP applicants interested in running their own technical operations. This advice is intended to respond to the Board's question asking for elaboration on the GAC's ICANN77 advice for the Board to explore the potential to support the provision of back-end services for successful ASP applicants.

# **Board Clarifying Question(s):**

- 1. Could the GAC provide additional insight into how it envisions such a platform and ICANN's involvement in its development and servicing? Is the GAC advising the Board that the ASP should provide capacity development support to supported applicants that become Registry Operators to become their own RSP?
- 2. Could the GAC provide insight into how its advice aligns with existing policy recommendations and whether the provision of back-end services in any form would constitute policymaking?
  The Board notes that the idea for providing support via the ASP for back-end services was not part of the

original SubPro Final Report policy recommendation 17.2 which called for an expanded scope of support. In the Board scorecard on Recommendation 17.2, the Board indicated that it would be "conducting ongoing work in relation to pending Recommendation 17.2, relating to expanding the scope of financial support." The Board also notes that the GNSO Small Team Plus has been working on a supplemental Recommendation 17.2 which is pending Board consideration. Though, it does not seem that the supplemental policy recommendation includes support with regards to back-end services. More broadly on the expanded scope of support, ICANN org has continued planning efforts on the options presented to the GNSO Small Team Plus, taking into account the ideas generated by that group and recognizing that supplemental Recommendation 17.2 is still pending Board consideration

# **Discussion**

**Rosalind KennyBirch** suggested that these questions would be best answered in writing but confirmed, in the meantime, that the GAC does see this as an important part of capacity development support. She also emphasized, as reflected in the language of the advice, the GAC's interest in the long term perspective of eligible applicants moving to "eventually operate their own back-end services".

**Becky Burr,** while noting that support options in the area of technical back-end services are not precluded in the ASP program, inquired further on whether the GAC Advice was seeking the establishment of a specific

Registry Service Provider (RSP) to serve the needs of eligible applicant, which she stated would be problematic.

**Edmon Chung** (ICANN Board) noting that he is not involved in the ICANN Board discussion on New gTLDs for reason of potential conflict of interest, wondered whether the GAC was thinking of eligible applicants who may eventually be interested in operating their own technical back-end services.

**Nigel Hickson** confirmed that this would be consistent with the experience of previous applicants discussed in the Community: it is attractive for new applicants to rely on the competence and services of traditional Registry Service Providers initially, but such arrangements are not necessarily supportive of the development of technical operations skills by the applicant, or within the applicant's country. He suggested that arrangements such as the use of shared platforms could be beneficial until an applicant is able to take over technical operations of its TLD.

**Becky Burr** shared comments by Harald Alvestrand (IETF Liaison to the CANN Board) pointing out the availability of back end platforms, including open source platforms, and discouraging applicants to launch their TLD while running their own back end platform. Looking forward to the GAC's clarification of its Advice, Becky Burr emphasized the Board's request that the GAC clarifies the kind of platform it is referring to, what it means by "leveraging" such a platform, and what role it sees for ICANN in the development and operation of such a platform.

# III. Review of ICANN79 GAC Consensus and Advice and Clarifying Discussion on Urgent Requests for Disclosure of Registration Data

#### GAC Advice §2.a.i

- a. The GAC advises the Board:
  - i. To act expeditiously to establish a clear process and a timeline for the delivery of a policy on Urgent Requests for domain name registration data, to respond to the vital public safety interests related to such requests. Such a process must ensure appropriate participation of the community, including the GAC.

# **RATIONALE**

The GAC reiterates its public policy concerns on the lack of progress in establishing an appropriate timeline to respond to requests for registration data in select emergency circumstances, known as "Urgent Requests", i.e., circumstances that that pose an imminent threat to life, of serious bodily injury, to critical infrastructure, or of child exploitation in cases where disclosure of the data is necessary in combatting or addressing this threat.

The GAC recalls that the 2019 Phase 1 policy recommendations provided for a separate timeline for the response to "'Urgent' Reasonable Disclosure Requests, those Requests for which evidence is supplied to show an immediate need for disclosure". The Implementation Review Team (IRT) developed narrow criteria for Urgent Requests and initially proposed an up to three-business day timeline to respond to such emergency requests. In public comments on the Draft Registration Data Consensus Policy, GAC and other stakeholder groups objected to the IRT's proposed timeline to respond to "Urgent Requests" as not consistent with the obligation to respond to emergency situations and recommended that the IRT revisit the timeline. The ICANN org Implementation Project Team carefully reviewed the public input received and concluded that there was "sufficient justification to revisit the policy language and to require a 24-hour response time for urgent requests." Regrettably, the IRT discussions could not reach a consensus and the latest proposal of three business days with two possible extensions was considered by the GAC as not meeting the purpose of providing a reasonable window to respond to emergency or urgent requests, as per the GAC correspondence with the Board of August 2023.

Recalling the ICANN78 Communiqué, the GAC appreciates the initiative of the Board to separate the topic of Urgent Requests from the publication of the overarching Registration Data Consensus Policy for gTLDs and welcomes the recent publication of the latter. Having discussed the issue with the Board during ICANN79, the GAC understands that no process for addressing the matter of Urgent Requests has been established since the work was interrupted in August 2023. Against this background, the work initiated in 2019 should restart as soon as possible with the aim to achieve "an outcome that better meets the public safety considerations posed by urgent requests" and "is fit for purpose" as also recommended by the SSAC.

#### **Board Comment(s):**

The Board understands that the GAC is calling for policy work with respect to urgent requests for registration data, and that the GAC is interested in participating in such policy development.

As noted in the Board's letter to the GAC of 11 February 2024, the Board believes that consultation with the GNSO is required to agree on the way forward for this topic. The Board plans to initiate this conversation shortly, and believes this will allow the establishment of a plan and timeline for community work on this issue.

The Board agrees with the GAC on the importance of additional work in this area.

The Board understands the GAC's reference to "work initiated in 2019" to refer to the org's work with the Implementation Review Team for the Expedited Policy Development Process (EPDP) Phase 1 on the Temporary Specification, and would like to clarify that this may not necessarily be the venue for additional work around the issue. The Board would like to discuss this with the GNSO as part of moving forward.

# **Discussion**

**Becky Burr** recalled that the ICANN Board is a strong proponent of early engagement by the GAC in the policy development process, that additional policy work is needed on this matter and that this requires consultation with the GNSO to agree on a way forward. This is due to the unprecedented situation of the Board realizing during policy implementation that policy recommendations it has previously approved are not fit for purpose and need further policy development work, without a clear procedural mechanism available in order to do so. Becky Burr further stated she thinks the Board is aligned with the GAC on the importance of moving forward with work to address this issue. On substance, she offered that in order to provide a prompt response to an imminent threat to life, physical harm or child endangerment registrars need a way to authenticate who they are dealing with, which is challenging.

**Martina Barbero** (European Commission) welcomed the ICANN Board taking the matter of Urgent Requests very seriously and indicated looking forward to the outcomes of the Board's discussion with the GNSO Council. She recalled the views expressed in previous Board/GAC discussions of this matter that authentication of law enforcement requesters, which she sees as a very complex matter, was not discussed by the IRT, and that the issue during implementation was the timeline for response to Urgent Requests for registration data.

**Becky Burr** confirmed that authentication of law enforcement requests was not the issue on which the IRT stumbled when the ICANN Board felt required to intervene, but has become a consideration in that this may be a necessary tool if registrars are to be required to provide a response to Urgent Requests in a timeframe that is commensurate with the nature of the emergencies at hand.

**Danko Jevtović** (ICANN Board) discussed the cost challenges registrars face in processing urgent requests in general, including when there are no costs or constraints in filing them, as is the case in the Registration Data Request Service (RDRS). On the registrar's end, this requires 24/7 verification of urgency of requests and conducting of legally-mandated balancing tests for appropriate data disclosure decision-making.

# IV. Continuing Discussion of ICANN79 Topics and Issues of Importance in the ICANN78 GAC Hamburg Communiqué

#### **Name Collision Analysis Project**

### **GAC Question to ICANN Board during ICANN79:**

In light of this public consultation, and following past GAC advice on this issue; we would like to know if the Board would support the adoption of a Framework in which, ahead of a Next Round, the issue can be dealt with?

**Becky Burr** prefaced the discussion of this question by saying that that the ICANN Board intends rely heavily on the input of the Security and Stability Advisory Committee (SSAC) which it is expecting, and stated that the ICANN Board would like a framework which could support understanding of what process and tests need to be completed, as part of the delegation process, to ensure that there are no name collision-related security issues.

**Jim Galvin** (SSAC liaison to the ICANN Board) confirmed that the SSAC will deliver its report to the ICANN Board on or about 1 May 2024, thus enabling consideration of its proposals by the GAC in time for ICANN80.

**Nigel Hickson** recalled the GAC's recognition of the importance of this matter, in light of events in the previous round of gTLDs, as well as GAC Advice that a Framework should be in place in order to avoid the handling of the issue of name collisions on an ad hoc basis.

# **DNS Abuse**

# <u>Text of "5. DNS Abuse" section under "IV. Issues of Importance to the GAC" in the GAC Hamburg Communiqué</u>

During ICANN78, the GAC welcomed updates on advancements in DNS Abuse measurement, examples of DNS Abuse mitigation solutions, and an update from the ccNSO DNS Abuse Standing Committee.

The GAC urges the Contracted Parties to adopt the DNS Abuse amendments so that baseline obligations for gTLD registries and registrars regarding DNS Abuse are established in ICANN's contracts. The GAC also urges ICANN org to provide the community with the ability to monitor the implementation of the amendments.

At the same time, the GAC notes with disappointment that suggestions made in its submission to the public consultation on the contract amendments were not reflected in the final amendments or Advisory. The GAC underlines the importance of taking GAC input into account in future work.

In particular, the GAC reiterates the importance of considering proactive monitoring and transparency of reporting. The GAC also recalls the practical need to recognize the inevitable evolution of DNS Abuse, including how it is defined in the amendments, as well as abuse report handling, tackling systemic abuse and additional reporting and data collection requirements.

Once the amendments are adopted, the GAC intends to engage with the community in discussions on policy efforts around the above mentioned topics as well as other key themes linked to effective implementation of the amendments, such as clarification of key terms from the amendments (i.e., "reasonable", "actionable", "prompt"), and further actions to mitigate DNS Abuse, such as capacity building efforts.

Finally, the GAC recognizes that the accuracy of domain name registration data as it pertains to DNS Abuse remains an ongoing topic of great interest to be pursued.

**Becky Burr** reaffirmed the Board's appreciation that DNS Abuse is an issue of importance to the GAC, noting it is also an issue of importance to the ICANN Board. She shared the ICANN Board's understanding that the GAC Comment expressed concerns that there weren't clear consequences for failure to comply with the proposed new DNS Abuse mitigation requirements, which she recalled came into effect on 5 April 2024. She noted however that as provisions incorporated into the wider Registrar Accreditation Agreement and Registry Agreement, they will be subject to the specific consequences for non compliance with any aspects of those agreements, including suspension, non renewal or termination of the agreement. Thus, the ICANN Board believes it created an environment where enforceability is possible and will be ensured. These agreements, Becky Burr proposed, were not the end of the story, nor designed to be: noting ongoing work in many parts of the community, she shared the Board's expectation that the conversation on DNS Abuse, and its evolutions, is not over. In closing, she noted that ICANN Compliance maintains online resources which will provide granular data on the enforcement of the new provisions, and which will be shared with the GAC.

**Susan Chalmers** shared with the ICANN Board for awareness the updated slate of GAC Topic Leads on the issue of DNS Abuse, that is: the United States, the European Commission and Japan. She confirmed interest in the GAC to review the compliance reporting metrics and wondered at what point in time it might be possible to observe the impact of the new amendments, and to resume the broader discussions on DNS Abuse to determine the scope of Policy Development Processes (PDPs) that could effectively supplement the contract provisions. She recalled previous discussion with the ICANN Board of possible listening sessions about the potential scope of any targeted PDPs and suggested that this be revisited once there is a clear picture of how the industry is responding to its new obligations to address DNS Abuse.

#### **Emergency Assistance Program for Continued Internet Access**

# <u>Text of "7. Emergency Assistance Program for Continued Internet Access" section under "IV. Issues of Importance to the GAC" in the GAC Hamburg Communique</u>

While the GAC acknowledges the information previously shared by the Board, the GAC reiterates its interest in having further details on criteria, dates and updates related to the Emergency Assistance Program for Continued Internet Access.

**Becky Burr** indicated that ICANN did solicit expressions of interest from eligible organizations focused on supporting Internet access and recovery of Internet access for local populations during natural disasters or man-made emergencies, and that ICANN has signed master agreements with 2 qualifying organizations: NetHope, a consortium of leading global nonprofits working across geographies and missions to solves some of the world's greatest development, humanitarian and conservation challenges; and Telecoms Sans Frontières, which was founded in 1998 and is the world's first non-governmental organization focusing on emergency response technologies.

ICANN is also in negotiations with a third party, and if an agreement is reached there will be an official announcement. More information on the Expression of Interest process and eligibility criteria is available at <a href="https://www.icann.org/public-responsibility/emergency-assistance-program">https://www.icann.org/public-responsibility/emergency-assistance-program</a>. Becky Burr stressed that If and when emergencies arise where ICANN could provide support, ICANN org will determine in each case whether the proposed relief is appropriate in the specific circumstances, in line with ICANN's mission, that is focusing on supporting recovery of and continued access to the Internet in response to natural or man-made emergencies.

#### V. Conclusion

In closing, **Nicolas Caballero**, **Becky Burr**, **Tripti Sinha**, shared their appreciation to the GAC and ICANN Board representatives for taking part in the call and for the constructive and valued dialogue. They looked forward to the next opportunity for the ICANN Board and the GAC to meet in person, during the upcoming ICANN80 meeting and the associated High Level Government Meeting in Kigali, Rwanda.

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# VI. Meeting Participants

#### GAC

Nico Caballero, GAC Chair Stefan Vouk, Austria

Marina Flego Eiras, Argentina Dr Shamsuzzoha, Bangladesh

Suada Hadzovic, Bosnia and Herzegovina

Alfonso Besada, Brazil Rida Tahir, Canada

Jose Hernandez, Cayman Islands Abdeldjalil Bachar Bong, Chad

Wang Lang, China

Thiago Dal-Toe, Colombia Zdravko Jukic, Croatia Mislav Hebel, Croatia Finn Petersen, Denmark Manal Ismail, Egypt Christine Arida, Egypt

Martina Barbero, European Commission

Adriano Daddario, Italy Kavouss Arasteh, Iran Zeina Bou Harb, Lebanon

Lourino Chemane, Mozambique

Alisa Heaver, Netherlands

Russell Woruba, Papua New Guinea

Ana Neves, Portugal

Deolindo Costa, São Tomé and Príncipe

Sasa Kovacevic, Serbia Ana Maldonado, Spain Jorge Cancio, Switzerland

Cheng-Nan Chiang, Chinese Taipei

Jose Lay, Timor Leste 'Esau Tupou, Tonga Gloria Katuuku, Uganda Nigel Hickson, UK

Rosalind KennyBirch, UK Susan Chalmers, USA Kenneth Merrill, USA Owen Fletcher, USA

Tracy F. Hackshaw, UPU

#### **ICANN Board**

Tripti Sinha, ICANN Board Chair

Alan Barrett Becky Burr

Catherine Nyaki Adeya

Chris Buckridge
Christin Kaufmann
Danko Jevtović
Edmon Chung
Harald Alvestrand
James Galvin
Katrina Sataki

León Felipe Sánchez Ambía

Maarten Botterman Patricio Poblete Wes Hardaker

#### **ICANN Org:**

David Olive
Andrew Chen
Bob Ochieng
Eleeza Agopian
Erika Randall
Jamie Hedlund
Jared Erwin
Karen Lentz
Lars Hoffmann
Marika Konings
Mary Wong
Sam Eisner

Theresa Swinehart Veni Markovski Vinciane Koenigsfeld

**Xavier Calvez** 

# **GAC Support Staff:**

Robert Hoggarth
Fabien Betremieux
Julia Charvolen
Gulten Tene Oksuzo

Gulten Tepe Oksuzoglu

Daniel Gluck