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# GOVERNMENTAL ADVISORY COMMITTEE (GAC): MINUTES OF MEETING, Barcelona, 20-24 October 2018

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## 1. MEETING ATTENDANCE & MEMBERSHIP

Ninety GAC Members and nine GAC Observers attended the meeting.

The GAC welcomed Laos as a new member.

GAC membership currently stands at 178 Members, and 36 Observers.

A list of attendees is at **Attachment 1**.

The GAC Barcelona Communiqué is on the GAC website at:

<https://gac.icann.org/contentMigrated/icann63-barcelona-communicue>

Presentations used by speakers during the meeting and supporting briefing prepared for the GAC can be accessed, where available, from the [GAC website](#) under Meetings and Records/ICANN Meeting Agendas. Full transcripts for each session are available at the [ICANN 63 schedule website](#).

## 2. PUBLIC POLICY AND SUBSTANTIVE ISSUES

### 2a: WHOIS/GDPR

GAC members and the GAC's Public Safety Working Group (PSWG) again participated actively in a wide range of multi-party discussions aimed at continuing to develop arrangements to ensure WHOIS compliance with the European General Data Protection Regulation (GDPR), including:

- Discussions with the ICANN Board concerning the GNSO Expedited Policy Development Process (EPDP), a unified access model and the German court case ICANN vs EPAG.
- Meetings of the EPDP.
- Cross-Community and High Interest Topic public sessions.
- An exchange of views with the Non-Commercial Stakeholder Group (NCSG) and the Intellectual Property (IPC) and Business (BC) Constituencies.

The GAC included in the Communiqué a summary of its views (section IV.3) and follow-up on previous advice concerning the ICANN Unified Access Model.

#### Action Points

GAC to follow up on its advice to the Board on this matter through the usual procedure (*GAC leadership + members*).

GAC to continue engagement with the EPDP (in accordance with previously agreed procedures) and ICANN on these issues (*GAC leadership + members*).

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

This continued to be an area of concern for several GAC members.

As discussed at ICANN 62, the measures taken by ICANN Org to address GAC concerns on process and improve communications have been found by many governments to be inadequate.

The GAC agreed that a clear statement is needed from the Board on its implementation of GAC advice on this issue, including whether Board Resolution 2016.11.08.15 is in accordance with such advice. A request for such a statement was included in the Communique.

The GAC noted that ICANN's web-based portal for governments on actions taken by ICANN and registries with regard to particular country codes is not yet available.

#### **Action Point**

ICANN Board to take action to resolve outstanding concerns from GAC members, with GAC to follow up on its advice to the Board on this matter through the usual procedure (GAC leadership + members).

### **2c: IGO Names and Acronyms**

The GAC noted with concern that the final report of the GNSO PDP on IGO-INGO Access to Curative Rights Protection Mechanisms retains recommendations that conflict with GAC advice. This concern, and the GAC's support for any process that would reconcile these conflicting views, was conveyed to the GNSO Council in writing and at the face-to-face meeting. The matter was also raised with the Board, and Board members stated they would follow existing procedures for dealing with conflicting policy advice once they had received the PDP Final Report. The GAC agreed to advise the Board to facilitate a GNSO-GAC dialogue.

#### **Action Point**

GAC to follow up on its advice to the Board on this matter through the usual procedure (GAC leadership + members).

### **2d: Red Cross Red Crescent Designations and Identifiers**

The GAC informed the ICANN Board, and included in the Communique as follow-up to previous advice, that it supports the recommendations of the reconvened PDP Working Group on this matter; and that temporary protections should remain in place for acronyms for the ICRC and IFRC pending substantive resolution.

#### **Action Point**

GAC to follow up on its advice to the Board on this matter through the usual procedure (GAC leadership + members).

### **2e: New gTLDs Subsequent Procedures PDP Work Tracks 1-4**

The GAC again reviewed the work and timelines of the New gTLD Subsequent Procedures PDP and met with the PDP Co-Chairs.

The Co-Chairs noted concerns raised by GAC members about the volume and complexity of the issues being dealt with by the PDP and offered to assist with briefing, webinars and other initiatives that the GAC may request.

The GAC agreed that it would consider establishing a Working Group to coordinate GAC consideration of and input to the work of the PDP.

#### **Action Point**

GAC to consider a request to the PDP for assistance in identifying key issues; and the establishment of a GAC working group on new gTLD subsequent procedures/future gTLD rounds (*GAC leadership + members*).

## **2f: New gTLDs Subsequent Procedures PDP Work Track 5: Geographic Names**

The GAC was briefed by the Co-Leads of Work Track 5 (Geographic Names) of the New gTLD Subsequent Procedures PDP. It was noted that any comments from the GAC and/or GAC members on the draft Initial Report would need to be provided as soon as possible in view of the report's likely publication by end 2018. GAC members reviewed recent discussions on Alpha-3 codes in ISO-3166, non-capital city names and terms not included in the 2012 Applicant Guidebook.

#### **Action Point**

GAC participants in WT5 to continue to engage with its work and report to GAC on developments (*GAC WT5 participants*).

## **2g: Dot.Amazon**

Colombia provided the GAC and the ICANN Board with an update on consideration by ACTO governments of the proposals from Amazon.com presented at ICANN 60. The GAC agreed to include an update in the Communique and to continue monitoring relevant developments.

#### **Action Point**

Continue monitoring relevant developments (*GAC Leadership*).

## **2h: New gTLD Auction Proceeds**

The GAC reviewed the Initial Report of the Cross Community Working Group on New gTLD Auction Proceeds. It was noted that a funding mechanism could provide opportunities for assistance to developing countries. The GAC will consider whether to make a submission to the Public Comment process.

#### **Action Point**

The GAC will continue to engage with the work of the CCWG and consider its response as a Chartering Organisation to any final recommendations in due course (*GAC Leadership + members*).

## **2i: GAC Participation in NomCom**

The GAC was briefed on NomCom procedures, including confidentiality; and on implementation of the NomCom Review. The question of whether and how the GAC should use its currently vacant position on the NomCom was discussed but not resolved.

Possible annual review/updating of the GAC NomCom criteria for Board member selection was noted.

#### **Action Point**

Relevant issues to be progressed further in the first instance by the GAC Working Group on Participation in the NomCom.

### **3. CROSS-COMMUNITY ENGAGEMENT**

#### **3a: Meeting with ICANN Board**

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

- Recommendations of the reconvened GNSO PDP dealing with Red Cross Red Crescent protections. See 2.d above.
- An update from Colombia on the dot.amazon issue. See 2.g above.
- 2-character country and territory codes at the second level. See 2.b above.
- The GNSO PDP on IGO-INGO Access to Curative Rights Protection Mechanisms. See 2.c above.
- Development of Unified Access Model for non-public WHOIS data. See 2.a above.
- The ICANN vs EPAG legal case. See 2.a above.
- Progress in the Expediated Policy Development Process. See 2.a above.
- The High Level Governmental Meeting held in Barcelona. See 5 below,

#### **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:

- The operation of the GNSO Policy Development Process and proposed incremental improvements ("PDP 3.0").
- Next steps on the Council's response to the Final Report of the PDP on IGO-INGO Access to Curative Rights Protection Mechanisms.

#### **Action Points**

See 2.c above.

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

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

- WHOIS status and impact of GDPR on European ccTLDs.
- The ccNSO PDP on Retirement of ccTLDs.
- The ccNSO as a Decisional Participant in the Empowered Community.
- ccNSO priorities for 2019.

#### **Action Point**

None.

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

The GAC met with ALAC leadership and members and discussed:

- The policy basis for further expansion of the gTLD space.
- GDPR/WHOIS.
- Follow-up on the joint GAC-ALAC statement on inclusive, informed and meaningful participation in ICANN. There was agreement on a follow-up joint statement, which is attached to the Communique.

#### **Action Point**

Seek ICANN Board reaction the joint follow-up statement (*GAC Leadership*).

### **3e: Meeting with Public Technical Identifiers (PTI)**

The GAC met with members of the PTI Board and discussed:

- IANA and PTI functions.
- PTI Board priorities.
- KSK Rollover.

#### **Action Point**

None.

## **4. ICANN ACCOUNTABILITY**

### **4a: ICANN Empowered Community**

The GAC did not discuss any Empowered Community issues at this meeting.

#### **Action Point**

GAC Secretariat to continue to monitor Empowered Community developments and advise the GAC Chair and members as appropriate.

### **4b: Cross Community Working Group on Enhancing ICANN Accountability**

The GAC agreed to support the CCWG-Accountability Work Stream 2 recommendations with regard to:

- Improving diversity.
- Framework of Interpretation for Human Rights
- Guidelines for standards of conduct presumed to be in good faith associated with exercising removal of individual ICANN Board directors.
- Improving the ICANN Office of the Ombudsman.
- Increasing SO/AC accountability.
- Improving staff accountability.
- Improving ICANN transparency.

There was extensive discussion of the recommendations on ICANN jurisdiction. The GAC was unable to reach a position on these recommendations and this was reflected in the Communique.

#### **Action Point**

GAC position to be conveyed to the CCWG Co-Chairs (*Completed*).

## **5. HIGH LEVEL GOVERNMENTAL MEETING (HLGM) 2018**

The Government of Spain hosted the fourth High Level Governmental Meeting, which was attended by 124 delegations.

Issues of concern to some members were noted in the Communique.

A Chair's Report will be prepared by the Government of Spain.

## **6. INTERNAL GAC MATTERS**

### **6a: Elections**

The GAC elected Manal Ismail (Egypt) as Chair for the term March 2019-March 2021.

The GAC elected as Vice Chairs for the period March 2019-March 2020:

Chérif Diallo (Senegal)

Pär Brumark (Niue)

Thiago Jardim (Brazil)

Olga Cavalli (Argentina)

Luisa Paez (Canada)

### **6b: Board-GAC Review Implementation Working Group (BGRI)**

ICANN Board and GAC members met in GAC plenary session and:

- Agreed to change the name of the group to "Board-GAC Interaction Group"
- Noted the Board's proposed timeline for responding to the Barcelona Communique
- Reviewed and noted feedback on the Board's continuing initiative to ensure that the status of historical and current GAC advice is accurately recorded and tracked.

#### **Action Point**

GAC to continue engagement in BGIG work (*GAC leadership + members*).

### **6c: Independent GAC Secretariat**

The GAC noted that the independent secretariat structure put in place in 2013 is now coming to a close and the situation should be reviewed with a view to sustainable future options.

Services provided by ACIG will cease on 31 December 2018.

The GAC Chair has requested additional staff support from ICANN pending further consideration by the GAC of this issue.

### **Action Point**

Ongoing work on sustainable options for an independent secretariat (*GAC leadership + GAC Task Force*).

## **6d: GAC Operational Matters**

The GAC noted appointments as GAC liaison/representative of Nigel Cassimir, CTU (Customer Standing Committee) and Karel Douglas, Trinidad and Tobago (ICANN Fellowship Program Selection Committee).

The GAC was briefed on the establishment of a new GAC Working Group to review GAC Operating Principles (Lead: China).

ICANN GAC support staff briefed the GAC on meeting arrangements for ICANN 64; onboarding of new GAC members; and updating of travel support guidelines.

## **7. GAC WORKING GROUPS**

GAC Working Groups reported to the GAC as follows.

**The GAC Public Safety Working Group (PSWG):** The PSWG discussed the serious impact of ICANN's Temporary Specification for gTLD Registration Data on Law Enforcement investigations and on that of their cybersecurity partners. The lack of details regarding what constitutes a "reasonable access" to redacted WHOIS data continues to further hamper investigations and prolong the exposure of victims to crime and abuse.

Participants in the Working Group agree that effective investigations to determine identifying information for criminal acts and the protection of victims require an access model providing centralized, lawful direct access to non public WHOIS data. Capabilities to support critical investigative techniques such as reverse lookup and historical queries should be explored. The PSWG believes this can be achieved in compliance with relevant Data Protection Laws, leveraging technologies such as the Registration Data Access Protocol (RDAP) and data anonymization, where applicable.

**The GAC Working Group on Under-Served Regions:** The GAC Underserved Regions Working Group in collaboration with ICANN's Government Engagement Team developed a Capacity Building Evaluation Report that will be shared with the GAC for comments with a view to endorsement during ICANN64.

**GAC Working Group on Human Rights and International Law:** The working group discussed internal matters, including an initial exchange on possible updates to its current work plan. An updated version will be further discussed intersessionally. An exchange was held on the adoption of the Framework of Interpretation (FoI) and considerations relating to the Human Rights Core Value (HRCV), where some members expressed their concerns on its perceived shortcomings. The WG members will share and develop intersessionally ideas and options on potential implementation of the HRCV within the GAC for further discussion at ICANN64 as appropriate. The WG received written information from ICANN org on its work regarding a Human Rights Impact Assessment (HRIA) on ICANN org activities, and looks forward to a face-to-face exchange with ICANN org at the Kobe Meeting.

**GAC Working Group on GAC's Participation in the NomCom:** The Working Group met with the GAC in plenary and was briefed by the leadership of the Nominating Committee (NomCom) on committee operating procedures including confidentiality. A suggestion that the recently submitted GAC criteria for Board appointments be updated annually was noted. The GAC was also briefed on implementation of the NomCom review. The GAC will give further consideration to whether to resume its place on the NomCom.

## DOCUMENT ADMINISTRATION

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## ATTACHMENT 1 : GAC Attendees, Barcelona ICANN63

GAC Members		
African Union Commission	Holy See, Vatican City State	Pakistan
Argentina	Hong Kong, China	Palestine
Australia		Portugal
Azerbaijan	India	
	Indonesia	Romania
Bangladesh	Iran	Russian Federation
Belgium	Ireland	Rwanda
Benin	Italy	
Bosnia & Herzegovina		Sao Tome and Principe
Botswana	Jamaica	Senegal
Brazil	Japan	Serbia
Burundi		Singapore
	Kenya	Solomon Islands
Canada	Kiribati	South Africa
Chad	Korea, Republic of	Spain
China	Kuwait	Sri Lanka
Colombia		Sudan
Comoros	Latvia	Sweden
Congo, Democratic Republic of	Liberia	Switzerland
Congo, Republic of	Lithuania	
Cook Islands	Luxembourg	Chinese Taipei
Croatia		Timor Leste
	Macedonia	Tokelau
Denmark	Malaysia	Trinidad and Tobago
Dominican Republic	Mali	Tunisia
	Mexico	Turkey
Egypt	Moldova	Turkmenistan
Eswatini		Tuvalu
European Commission		
	Netherlands	Uganda
Finland	New Zealand	Ukraine
France	Nigeria	United Kingdom
	Niue	United States
Georgia	Norway	
Germany		Venezuela
Ghana	Oman	Vietnam
Guinea, Republic of		
GAC Observers		

Council of Europe	Economic Community of Central African States (ECCAS)	Organisation Internationale de la Francophonie (OIF)
World Intellectual Property Organisation (WIPO)	International Criminal Police Organisation (INTERPOL)	Organisation for Economic Cooperation & Development (OECD)
International Red Cross Red Crescent Movement	World Broadcasting Union	West Africa Telecommunications Regulators Assembly (WATRA)