

ICANN | GAC

Governmental Advisory Committee

Marrakech, Morocco, 27 June 2019

GAC Communiqué – Marrakech, Morocco¹

I. Introduction

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Marrakech, Morocco, from 24 to 27 June 2019.

Seventy-one (71) GAC Members and six (6) Observers attended the meeting in-person. Six (6) GAC members participated in the meeting remotely.

The GAC meeting was conducted as part of ICANN65. All GAC plenary and working group sessions were conducted as open meetings.

II. Inter-Constituency Activities and Community Engagement

Meeting with the ICANN Board

The GAC met with the ICANN Board and discussed:

- Evolving ICANN's Multistakeholder Model
- Two-Character Country Codes as Second Level Domains
- GAC Capacity Building Sustainability Efforts
- IGO Protections
- Domain Registration and Data Protection Matters - GDPR/EPDP
- .AMAZON Applications

¹ To access previous GAC Advice, whether on the same or other topics, past GAC communiqués are available at: <https://gac.icann.org/contentMigrated/GAC-Communique>

The GAC requested that the ICANN Board considers a sustainable model for the capacity building efforts of the GAC in ICANN's strategic planning, specifically in the allocation of adequate resources and budget rounds.

Regarding the .AMAZON Applications, several GAC members expressed their concerns about :

- the recent Board decision to find the Amazon corporation proposal of 17 April 2019 acceptable;
- the recent Board decision directing the ICANN org to continue processing of the .AMAZON applications according to the policies and procedures of the New gTLD Program; and
- the possibility of the outcome in the .AMAZON case becoming a precedent for similar cases for delegation of sensitive strings that the GAC has stressed as raising public policy concerns in future.

Several members referenced the ICANN60 Abu Dhabi GAC Communiqué in which the GAC recognized "the need to find a mutually acceptable solution in the case of the .Amazon gTLD applications for the countries affected and for the Amazon corporation." The comments to the Board reflected concern that such a mutually acceptable solution has not yet been achieved.

The ICANN Board expressed different views with regard to these concerns, considering that GAC advice was followed by ICANN. The ICANN Board noted ICANN org's efforts in facilitating parties coming together. They stated these efforts were conducted in good faith and with a "view to reach a mutually acceptable solution," as articulated in the Abu Dhabi GAC advice. The ICANN Board further expressed that it takes GAC advice seriously, not just because they think it is important, but also because it is in accordance with ICANN bylaws. The ICANN Board indicated that they looked forward to the GAC Communique and that they will stand ready to respond to any GAC Consensus Advice.

On another note, some GAC members urged all parties to exhaust all means consistent with applicable procedures to facilitate a mutually acceptable solution.

Meeting with the At Large Advisory Committee (ALAC)

The GAC met with members of the ALAC and discussed:

- Follow-up on the ICANN64 Joint GAC/ALAC Statement on the EPDP
- Capacity Building initiatives and the GAC/ALAC Focus Group on this matter
- Other initiatives for intersessional cooperation

The GAC and ALAC agreed to continue to progress their joint-capacity building efforts and to cooperate on policy issues of interest for governments and end users regarding subsequent rounds of New gTLDs. In principle, GAC and ALAC exchanges could take place within the GAC Focal Group on subsequent rounds of New gTLDs, subject to further consideration.

Meeting with Country Code Names Supporting Organization (ccNSO)

The GAC met with members of the ccNSO Council and discussed matters related to PDP Retirement and review of IDN ccTLD overall recommendations policy. The connection between ccTLDs and ISO-3166 was emphasized several times.

Meeting with Generic Names Supporting Organization (GNSO)

The GAC met with members of the GNSO Council and discussed:

- The Expedited Policy Development Process (EPDP) for Temporary Specification for gTLD Registration Data Phase 2
- The ICANN Legislative Tracker initiative.

Meeting with the GAC Work Party of the Third Accountability and Transparency Review Team (ATRT3)

The GAC met in plenary session with members of the GAC Work Party of the ATRT3. The GAC Work Party presented several questions regarding the GAC and its relationships with the ICANN Board and other ICANN constituencies. GAC members were invited to volunteer for future interviews with the Work Party.

Meeting with the Global Commission on the Stability of Cyberspace (GCSC)

Members of the GCSC met with the GAC in plenary session to share information about their work and to encourage further future dialogue with the GAC members. Topics discussed included: GCSC membership, mission, and draft norms.

Meeting with the Universal Acceptance Steering Group (UASG)

The UASG met with the GAC in plenary session to share information about their work and to encourage further future dialogue with the GAC. Topics discussed included:

- Overview and status of Universal Acceptance
- UASG's Action Plan for FY20
- How GAC members can help

Cross Community Discussions

GAC Members participated in relevant cross-community sessions and high interest topics scheduled as part of ICANN65, including DNS Over HTTPS, Future of the Multistakeholder Model of

III. Internal Matters

1. GAC Membership

There are currently 178 GAC Members and 37 Observers.

2. GAC Leadership

The GAC thanks Mr. Thiago Jardim (Brazil) for his service and wishes him well for the future.

3. GAC Working Groups

- **GAC Public Safety Working Group (PSWG)**

The GAC PSWG continued the discussion with the GAC on abuse mitigation measures. In line with its previous communiqués, the GAC noted that DNS abuse threatens the security and stability of the DNS, the universal acceptance of TLDs and consumer trust. This is also reflected in the recommendations of the Consumer Trust, Consumer Choice and Competition Review Team (CCT RT) whose importance the GAC highlighted in its Kobe Communiqué. The GAC agreed to engage with the ICANN community on a more effective approach to abuse mitigation, also with a view to the adoption of effective abuse mitigation policies for subsequent rounds of new gTLDs. The PSWG indicated that next steps should include the renewed engagement with the ICANN organisation to obtain further clarifications on a number of implementation questions contained in the annex to the Hyderabad Communiqué; the follow-up on the CCT RT recommendations; and a cross-community session at ICANN66 in Montreal.

- **GAC Human Rights and International Law Working Group (HRIL WG)**

The HRIL WG Co-Chairs presented the work conducted since ICANN64 on the options paper relative to implementing the ICANN Human Rights Core Values in GAC operations. Information on gender diversity and accessibility was shared. The Working Group Co-Chairs will continue working with the Cross Community Working Party on Human Rights on a possible cross community session for ICANN66. ICANN Org provided an update on its Human Rights Impact Assessment. GAC members are invited to contribute inter-sessionally on all topics relative to the HRIL WG.

- **GAC Underserved Regions Working Group (USRWG)**

The Working Group completed its pre-ICANN65 capacity building workshop for GAC Members from Africa with the generous support of the Moroccan Government and Moroccan National Regulatory Authority. The GAC will endorse the USRWG’s Capacity Development Evaluation Report, prior to ICANN66. During its meeting in GAC plenary, the USRWG discussed its Work Plan for endorsement, amended GAC Travel Support Rules, possible review and enhancement of the Applicant Support Program for subsequent rounds of new gTLDs, and funding for future capacity building workshops for Fiscal Year 2020. The USRWG confirmed its commitment to continue future capacity building efforts with ALAC.

Lastly, Karel Douglas (Trinidad and Tobago) will act as interim co-chair to the WG until further notice.

- **Working Group on GAC Operating Principles Evolution (GOPE WG)**

The GOPE WG met in non-plenary and plenary sessions during ICANN65 to discuss a GAC Working Group Guidelines document, developed since ICANN64, to supplement the GAC Operating Principles. The WG Chair invited GAC members to provide input on the guidelines.

4. GAC Focal Group on Subsequent Rounds of New gTLDs

The Focal Group formed following ICANN64 to consider policy input into discussions of subsequent rounds of New gTLDs, met for the first time in Marrakech. Twelve (12) GAC participants have volunteered to participate in this effort and are also encouraged to participate in the activities of the New gTLDs Subsequent Procedures PDP Working Group. The Focal Group will prioritize its work based on the “Preliminary GAC Scorecard: Status of Substantive Areas of Interest to the GAC on the Subsequent Procedures of New gTLDs”. The Focal Group will brief the GAC on its deliberations and discussions, and will not speak on behalf of the GAC.

5. New gTLD Subsequent Procedures PDP WG Work Track 5 on Geographic Names at the Top Level

A high level summary of comments received on the Work Track 5 Supplemental Initial Report was presented to the GAC. At this stage, Work Track 5 is seeking agreement on a set of recommendations that will be sent to the full New gTLDs Subsequent Procedures PDP Working Group for consideration and formal consensus call.

6. Board-GAC Interaction Group (BGIG)

The GAC met with the Board-GAC Interaction Group (BGIG) and discussed:

- The ICANN Board scorecard in response to the GAC Kobe Communiqué
- Timetable for Board review of the GAC Marrakech Communiqué
- Pending or deferred GAC advice

GAC Members suggested GAC/ICANN Board exchanges following ICANN meetings be less formal and more in depth, and a regular BGIG call be established.

7. GAC Leadership Elections

The 2019 election process for GAC Vice chairs will be initiated shortly after the ICANN65 meeting. The nomination period will close on 18 September 2019. If needed, a voting process will be conducted until 5 November 2019, during the ICANN66 meeting at which time the election results will be announced.

8. GAC Operational Matters

The GAC was briefed by GAC Support staff on upcoming elections, new membership management processes, attendance taking at GAC meetings, efforts to facilitate participation in GAC Working Groups and implementation of new privacy policies of the ICANN org.

IV. Issues of Importance to the GAC

1. IGO Protections

The GAC notes a discussion between representatives of the GNSO Council, GAC and IGOs, which was observed by a Board member, concerning the shared hope of agreeing on parameters under which to charter a focused group to produce policy recommendations which address concerns raised over IGO access to a curative dispute resolution mechanism.

2. WHOIS and Data Protection

Members of the GAC volunteered to provide indicative lists of public authorities and other relevant parties requiring non-public registration data, in response to the request included in the “Draft Framework for a Possible Unified Access Model” published on 20 August 2018².

The GAC intends to keep monitoring and assessing the progress by the GNSO EPDP and to assess again this progress by ICANN66.

V. Follow-up on Previous Advice

The following items reflect matters related to previous consensus advice provided to the Board.

1. .AMAZON applications

The GAC asks the Board to explain in writing whether and why it considers that its decision to proceed with the .AMAZON applications, based on a proposal that the eight Amazon countries considered did not address their concerns, complies with GAC Advice.

RATIONALE

During the meeting with the ICANN Board, several GAC members expressed their concerns about the recent Board decision to find the Amazon corporation proposal of 17 April 2019 acceptable and directing the ICANN org to continue processing of the .AMAZON applications according to the policies and procedures of the New gTLD Program. Concerns were also expressed with the possibility of the outcome in the .AMAZON case becoming a precedent for similar cases for

² See <https://www.icann.org/en/system/files/files/framework-elements-unified-access-model-for-discussion-20aug18-en.pdf> (section F.2. p.9)

delegation of sensitive strings that the GAC has stressed as raising public policy concerns in future. Several members referenced the ICANN60 Abu Dhabi Communiqué, where:

- a) in section “V. Follow-up on Previous Advice”, with regard to the “Application for .amazon and related strings”, “[t]he GAC expressed the need to find a mutually acceptable solution in the case of the .Amazon gTLD applications for the countries affected and for the Amazon corporation”; and
- b) in section “VII. GAC Consensus Advice to the Board”, with regard to “Applications for .amazon and related strings”, “[t]he GAC recognizes the need to find a mutually acceptable solution for the countries affected and the Amazon corporation to allow for the use of .amazon as a top level domain name”.

Several members also referenced the letter the GAC sent to the Board on 15 March 2018 in response to the Board’s request for “new or additional information to provide to the Board regarding the GAC’s advice that the Amazon applications should not proceed”, where it was stated that “the GAC does not have any additional information to provide to the Board on this matter, beyond referring to the GAC Abu Dhabi Communiqué.”

Some members did not necessarily agree with the basis of these concerns as articulated above nor with the interpretation of GAC advice on this subject.

On another note, some GAC members during the discussion with the ICANN Board, urged all parties to exhaust all means consistent with applicable procedures to facilitate a mutually acceptable solution.

This request for a written response from the Board should be considered a follow-up to the GAC-Board discussion during ICANN65 and should not be construed as new GAC Advice on this matter.

2. Two-Character Country Codes as Second Level Domain Names

The GAC remains concerned that GAC advice on the procedure for the release of country codes at the second level under new gTLDs was not taken into consideration as intended, and advises that meaningful steps be taken to ensure this does not happen in the future.

Moreover, the GAC notes the provision of a search tool by ICANN. GAC Members have highlighted that the effectiveness of the tool is still being evaluated.

The GAC urges ICANN to continue to engage with concerned GAC members in order to address their concerns.

3. WHOIS and Data Protection

The GAC recalls its GAC Kobe Communiqué Advice and welcomes the actions being taken on the 2nd phase of the EPDP.

VI. Next Face to Face Meeting

The GAC will next meet during ICANN66 in Montreal, Canada, scheduled for 2-7 November 2019.