Governmental Advisory Committee

GAC Communiqué – Dakar

I. Introduction

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Dakar, Senegal during the week of October 22-27, 2011. Forty-nine Governments participated in the meeting: 46 present and 3 by remote participation and six Observers. The GAC expresses warm thanks to the local hosts, The Ministry of Communication, Telecommunications and Information Technology (MICOMTELTIC) and the Regulatory Authority for Telecommunications and Post (ARTP) for their hospitality in organizing the meeting and ICANN for supporting the GAC during the meeting.

II. New gTLDs

The GAC further discussed and decided on the formulation of GAC advice for inclusion in Module 3 of the Applicant Guidebook [Annex I].

During the discussion ICANN Staff underlined their understanding that advice regarding the definition of Geographic Names should be adopted by the GAC.

The GAC congratulates the JAS working group on the final report and recommendations, which are consistent with GAC advice. The GAC looks forward to the Board providing clear timelines for implementation of the recommendations to enable needy applicants to join in full and meaningfully in the first round.

The GAC raised concern about the unpredictability of the actual number of applications that governments would have to digest to proceed after the end of the application period. The GAC made clear, that if the number of applications published by ICANN significantly exceeds 500, GAC members might not be able to process a very large number of applications in the very short early warning procedure and in the limited time for issuing GAC advice on all these strings.

Further, the GAC asked ICANN for clarification about its intention to process these applications in batches of 500, in the case that there are more than 500 applications. The GAC urges ICANN to clarify the procedures and implications for applicants being processed in different batches, as this might have implications for competition and applicants' business models.

Following presentations by the ICANN staff and the Security and Stability Advisory Committee, the GAC took note of the SSAC consideration of the combined impact of new gTLDs and other changes such as the introduction of IPv6, DNSSEC and IDNs to the root. The GAC welcomes the confirmation of the commitment by the ICANN Board to provide a full report with a complete analysis, including all underlying data, of the root system scalability well before the opening of the new gTLDs application round. The GAC further welcomes the confirmation of the commitment by the Board to evaluate the impact on the system after the 1st round, with the understanding that the launch of a second round is contingent on the outcome of this evaluation, in particular the absence of negative effects on the root system. The GAC believes that in order for this evaluation to be effective, an appropriate and trustable monitoring system needs to be in place.

In its discussions with the Board regarding the Communication Plan for new gTLDs, the GAC emphasised the importance of promoting the gTLDs application round in all countries, including developing countries. The GAC suggested that levels of awareness be continually assessed and reviewed, and priorities and target areas under the Plan be adjusted accordingly in the run up to the launch of the round.

The GAC welcomed the assurances received from the Board and staff that the evaluation of applications will ensure a level playing field for applicants and that any conflicts of interest will be identified and avoided accordingly.

III. Law Enforcement (LEA) Recommendations

In recent years, the Internet has grown to have over two billion users and be a significant contributor to the global economy.

Cyber-crime is a growing threat to the security and stability of the Internet, with broad and direct public policy impacts. Recent estimates suggest that the direct financial impact of cyber crime is extremely significant.

Law enforcement agencies have identified a series of specific problems which are limiting their ability to address this growing problem.

As part of this, law enforcement agencies have identified specific areas of concern in the ICANN context, relating to contractual weaknesses and a lack of necessary due diligence.

To address these urgent problems, in 2009 law enforcement agencies made 12 concrete recommendations to reduce the risk of criminal abuse of the domain name system.

These recommendations were informally socialized with the registrar community, the GAC, and with ICANN compliance staff over the course of several months, before the GAC advised the Board in its Brussels communiqué that it formally endorsed the recommendations.

Direct exchanges between law enforcement agencies and registrars continued in September 2010 in Washington D.C., in February 2011 in Brussels, and during the March and June 2011 ICANN meetings.

As a complement to the June exchanges in Singapore, the GAC urged the Board to support actions necessary to implement those recommendations as a matter of urgency.

To date, none of the recommendations have been implemented, and the risks remain. The GAC therefore advises the ICANN Board to take the necessary steps to ensure that ICANN's multistakeholder process effectively addresses these GAC-endorsed proposals as a matter of extreme urgency.

IV. Accountability and Transparency Review Team Recommendations (ATRT)

The GAC welcomes the update provided by ICANN staff on the ATRT Recommendations progress and the suggestions presented with regards to the implementation of recommendations 9 through 14 on the GAC role, effectiveness and interaction with the Board.

The GAC looks forward to an expedited implementation of the Joint Working Group and ATRT recommendations and is keen to continue working with the Board on the Recommendations related to the GAC.

V. Conflict of interest

The GAC expresses extreme concern about the inadequacy of the existing rules of ethics and conflict of interest in the light of recent events and therefore welcomes the approval of the motion by the Board Governance Committee on 15 September 2011 concerning "ethics and conflicts of interest". The GAC looks forward to the publication of a timeline with clear and effective actions as a conclusion of the Dakar meeting or shortly thereafter. In order to ensure the legitimacy and sustainability of the multi-stakeholder model as enshrined in ICANN, the GAC underlines the extreme urgency of putting in place effective and enforceable rules on conflicts of interest.

The GAC will keep this important issue under review and may come forward with further advice before the Costa Rica GAC meetings.

VI. Meeting with the Generic Names Supporting Organisation (GNSO)

The GAC and the GNSO exchanged views on a number of issues, beginning with an overview by ICANN staff of the GNSO policy development process. Consistent with the recommendations of the Accountability and Transparency Review Team and the related GAC-Board Joint Working Group, the GAC stressed its interest in ensuring that GAC views are provided and taken into account at early stages in the policy development process.

The meeting also discussed the implementation of the Law Enforcement Agency (LEA) recommendations to mitigate Domain Name System abuse, which were endorsed by the GAC in June 2010. The GAC expressed its disappointment that registrars were only able to report on their consideration of three of the twelve LEA Recommendations. Further, the reported progress fell substantially short of what GAC members believed had been achieved during its meetings with registrars in Singapore in June 2011. The GAC also expressed concern that there was no clarity on how the other nine recommendations were being progressed, despite the registrars' agreement at the Singapore meeting to provide regular status

reports. The GAC informed the GNSO Council of its intention to request the ICANN Board to take prompt and concrete action to implement the GAC/LEA recommendations.

The meeting also addressed the GAC's proposal to the GNSO on the protection mechanism for the International Olympic Committee and Red Cross/Red Crescent names at the top and second levels. The GAC requested feedback from the GNSO on the proposal as a first step in collaborating on advice for the ICANN Board in this regard, consistent with the ICANN Board Resolution in Singapore.

The GAC looks forward to further engagement with the GNSO to work more effectively within the ICANN processes and reinforce the sustainability of the multi-stakeholder model.

VII. Meeting with the At-Large Advisory Group (ALAC)

The GAC met with the ALAC to discuss Conflict of Interest issues within the ICANN Board and staff. The GAC agrees that this is a critical matter that needs to be addressed as a high priority within the community.

The GAC and ALAC also discussed the Joint Applicant Support (JAS) Working Group as well as the ALAC and GAC Joint Statement. The GAC expects a decision to be taken for implementation in time for the opening of the first new gTLD round.

In light of the common interest of advancing improvements in the ICANN model, the GAC and ALAC also discussed the ongoing work of the Accountability and Transparency Review Team (ATRT). The GAC shared the areas identified as a priority in the framework of the ATRT and the Joint Working Group recommendations, looking forward to an expedited implementation.

VIII. GAC Operating Principles

The GAC amended Principle 47 of its Operating Principles clarifying its understanding of consensus. The definition now introduced derives from United Nations practice and understands consensus as adopting decisions by general agreement in the absence of formal objections. The GAC noted that according to UN practice individual members may make reservations, declarations, statements of interpretation and/or statements of position regarding a consensus decision, provided such texts do not represent an objection to the consensus [Annex II].

IX. Joint session with the Country Code Names Supporting Organization (ccNSO)

The GAC met with the ccNSO to discuss the progress and ongoing work of the Framework of Interpretation cross-community Working Group (FoI) on delegation and redelegation, and the mechanisms for the GAC to provide feedback and contribute to this work within a timeline that the ccNSO has provided. In addition, the ccNSO shared an update of its current work areas and its organisational structure.

The GAC is eager to further engage with the ccNSO to provide timely inputs on the different stages of the FoI work.

X. Meeting with the Security and Stability Advisory Committee (SSAC)

The GAC thanks the SSAC for providing an update on its work including blocking and reputation systems, WHOIS matters and single label domain names. Further, the GAC thanks the SSAC Chair for discussions on Root Zone Scaling and Resource Public Key Infrastructure (RPKI).

The GAC looks forward to receiving further updates on DNS blocking matters and other relevant security and stability related matters.

XI. Meeting with the Nominating Committee (NomCom)

The GAC met with the Nominating Committee and discussed the skill-sets needed of an ICANN Director, as outlined in the Accountability and Transparency Review Team (ATRT) recommendations to improve the selection process. The NomCom invited individual GAC members to provide further inputs.

XII. Election of Vice-chairs

The GAC has reelected the current vice-chairs, Choon-Sai Lim (Singapore), Maria Häll (Sweden) and Alice Munyua (Kenya) to continue their mandate for another year.

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The GAC warmly thanks all those among the ICANN community who have contributed to the dialogue with the GAC in Dakar.

The GAC will meet during the period of the 43rd ICANN meeting in San José, Costa Rica.

Applicant Guidebook Module 3.1: GAC Advice on New gTLDs

ICANN's Governmental Advisory Committee was formed to consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues.

The process for GAC Advice on new gTLDs is intended to address applications that are identified by governments to be problematic, e.g., that potentially violate national law or raise sensitivities.

GAC members can raise concerns about any application to the GAC. The GAC as a whole will consider concerns raised by GAC members, and agree on GAC advice to forward to the ICANN Board of Directors.

The GAC can provide advice on any application. For the Board to be able to consider the GAC advice during the evaluation process, the GAC advice would have to be submitted by the close of the Objection Filing Period (see Module 1).

GAC Advice may take one of the following forms:

l. The GAC advises ICANN that it is the consensus of the GAC that a particular application should not proceed. This will create a strong presumption for the ICANN Board that the application should not be approved.

ll. The GAC advises ICANN that there are concerns about a particular application "dot-example". The ICANN Board is expected to enter into dialogue with the GAC to understand the scope of concerns. The ICANN Board is also expected to provide a rationale for its decision.

lll. The GAC advises ICANN that a particular application should not proceed unless remediated. This will raise a strong presumption for the Board that the application should not proceed unless there is a remediation method available in the Guidebook (such as securing one or more government's approval) that is implemented by the applicant.

Operating Principles Article XII Principle 47

The GAC works on the basis of seeking consensus among its membership. Consistent with United Nations practice[1], consensus is understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection. Where consensus is not possible, the Chair shall convey the full range of views expressed by members to the ICANN Board.

[Foot note to UN practice be inserted]

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[1] Statements by GAC members related to such advice will be posted on the GAC website.