



## Governmental Advisory Committee

Toronto, Canada – 17 October 2012

### **GAC Communiqué – Toronto, Canada<sup>1</sup>**

#### **I. Introduction**

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Toronto, Canada during the week of 13 October 2012. Fifty (50) GAC Members attended the meetings and three (3) Observers. The GAC expresses warm thanks to the local host, the Canadian Internet Registration Authority (CIRA) for their support.

A successful High Level Meeting of governments was held on 15 October, 2012, on the margins of the Toronto meetings centred around the theme of “Preserving and Improving the Multistakeholder Model”.

#### **II. Internal Matters**

1. The GAC welcomes the Cayman Islands, the Federated States of Micronesia, and Tuvalu as members of the GAC.
2. The GAC welcomes the New Partnership for Africa’s Development (NEPAD Agency), the Organisation of American States (OAS) and the World Health Organization as Observers to the GAC.
3. Peter Nettlefold from Australia, Thomas Schneider from Switzerland, and Tracy Hackshaw from Trinidad & Tobago were elected to the positions of Vice Chairs. Heather Dryden from Canada was re-elected to the position of GAC Chair. The decision is effective from the end of the first meeting of 2013. The GAC thanks Alice Munyua from Kenya, Choon Sai Lim from Singapore, and Maria Häll from Sweden for

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<sup>1</sup> To access previous GAC advice, whether on the same or other topics, past GAC communiqués are available at: <https://gacweb.icann.org/display/gacweb/GAC+Recent+Meetings> and older GAC communiqués are available at: <https://gacweb.icann.org/display/gacweb/GAC+Meetings+Archive>.

their service in their capacity as Vice Chairs and for their outstanding contribution to the work of the GAC.

4. The GAC has agreed to implement a process leading to the establishment of an independent Secretariat at the Beijing meeting.
5. The GAC noted that the South African government was not consulted with regards to the planned ICANN meeting in Durban, South Africa in July 2013.

### **III. Inter-constituency Activities**

1. The GAC met with the country code Names Supporting Organisation and received updates on: the activities of the Framework of Interpretation Working Group; the progress on the Internationalised Domain Names Policy Development Process; the study group on the use of country and territory names; and a presentation from the Netherlands and SIDN regarding their cooperative efforts to implement DNSSEC in the Netherlands.
2. The Board – GAC Recommendation Implementation Working Group (BGRI – WG) met to discuss further developments on the ATRT recommendations relating to the GAC, namely recommendations 11, 12, and 13. In the context of GAC Early Engagement, the BGRI-WG had a good exchange on ways to inform the GAC early of issues pertaining to public policy. The GAC intends to continue this discussion intersessionally with more focus on how GAC input may be sought and considered early within the PDP.
3. The GAC received an update from the Security and Stability Advisory Committee on their activities and reports related to the WHOIS Review Team Recommendations, dotless domains, and DNS blocking at the top level.

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The GAC warmly thanks the ccNSO and the SSAC, as well as all those among the ICANN community who have contributed to the dialogue with the GAC in Toronto.

## IV. GAC Advice to the Board<sup>2</sup>

### 1. GAC Member Early Warnings

The GAC acknowledges that the new gTLD program provides mechanisms to address a range of risks and identified concerns. The Applicant Guidebook also provides a specific role for the GAC to provide early warnings and advice on new gTLD applications that raise public policy issues. In this context, and in light of the full range of received applications, individual GAC members are considering whether the existing mechanisms provided in the Guidebook are sufficient to address the identified issues in all instances. In the interest of sharing information with the community, and in advance of individual GAC members issuing any early warnings on specific applications, the GAC notes that individual GAC members are considering a range of specific issues including:

- Consumer protection
- Strings that are linked to regulated market sectors, such as the financial, health and charity sectors
- Competition issues
- Strings that have broad or multiple uses or meanings, and where one entity is seeking exclusive use
- Religious terms where the applicant has no, or limited, support from the relevant religious organisations or the religious community
- Minimising the need for defensive registrations
- Protection of geographic names
- Intellectual property rights particularly in relation to strings aimed at the distribution of music, video and other digital material
- The relationship between new gTLD applications and all applicable legislation

The GAC looks forward to discussing these issues with the ICANN community, and expects to finalise GAC advice on gTLD applications following the ICANN meeting in April 2013. As part of this work, some GAC members may initiate direct dialogue with applicants, including through the early warning process. The GAC confirms that it will forward early warnings from GAC members on 20 November 2012, and encourages a collaborative and cooperative approach to addressing any issues identified in those early warnings.

The statements and commitments detailed in individual gTLD applications are a critical input to the GAC's work in this area.

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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+Advice>

**The GAC requests written briefing from the ICANN Board on:**

- the extent to which applicants will be able to modify their applications as a result of early warnings.
- how ICANN will ensure that any commitments made by applicants, in their applications or as a result of any subsequent changes, will be overseen and enforced by ICANN.

**The GAC advises the ICANN Board:**

- that it is necessary for all of these statements of commitment and objectives to be transformed into binding contractual commitments, subject to compliance oversight by ICANN.
- The GAC expects that applicants would not be penalised where the standard provisions of a contract are amended in order to meet specific obligations entered into in order to meet governmental concerns.

The GAC encourages ICANN to continue its work to promote awareness of the new gTLD program, and looks forward to further engagement with the community on these issues as the program progresses.

Any advice and action by the GAC or by one or more of its members are entirely without prejudice to any other investigative, enforcement or other actions that a GAC member might wish to undertake, pursuant to applicable law.

## **2. Protections for Intergovernmental Organisations**

While the GAC continues its deliberations on the protection of the names and acronyms of Intergovernmental Organizations (IGOs) against inappropriate third-party registration:

**The GAC advises the ICANN Board that:**

- in the public interest, implementation of such protection at the second level must be accomplished prior to the delegation of any new gTLDs, and in future rounds of gTLDs, at the second and top level.

The GAC believes that the current criteria for registration under the .int top level domain, which are cited in the Applicant Guidebook as a basis for an IGO to file a legal rights objection, provide a starting basis for protecting IGO names and acronyms in all new gTLDs.

Building on these criteria, the GAC and IGOs will collaborate to develop a list of the names and acronyms of IGOs that should be protected. Pending further work with ICANN on specific implementation measures for this initiative, the GAC believes this

list of IGOs should be approved for interim protection through a moratorium against third-party registration prior to the delegation of any new gTLDs.

### **3. International Olympic Committee and Red Cross/Red Crescent**

The GAC welcomes the ICANN Board's Resolution on 13 September 2012, and agrees with the Board that protection for the second level should be in place before the delegation of the first new gTLDs.

The GAC notes the GNSO's Drafting Team has recently posted a set of recommendations, which state that an expedited policy development process (PDP) is required.

The GAC will seek clarification from the GNSO as to its rationale for initiating a PDP. In light of the legal basis for advancing protections for the IOC/Red Cross Names at the top and second levels, which include coverage under international legal instruments and under national laws in multiple jurisdictions, the GAC considers its advice on the matter to fall into the category of implementation rather than policy development. The GAC requests the opportunity to understand the views of the Board in this regard.

### **4. Prioritization Drawing Proposal**

The GAC welcomes the presentation of the proposal made by ICANN staff to have a prioritization drawing in early December 2012 regarding the new gTLDs. Previous GAC advice on competition and fairness remains valid in this instance given the stated exception in the Drawing Proposal paper proposed by ICANN for the IDN applications being prioritized in the global public interest. Noting this, there were expressions from some GAC members that there are other ways of taking into account global public interest and international outreach. Some members consider that geographic name gTLDs approved by the relevant government authority, community names and applications from developing countries should likewise be prioritized.

## **V. Next Meeting**

The GAC is considering holding an intersessional meeting as needed.

The GAC will meet during the period of the 46<sup>th</sup> ICANN meeting in Beijing, People's Republic of China.