ICANN70 | Virtual Community Forum - GAC Discussion on Subsequent Rounds of new gTLDs (1 of 3)
Monday, March 22, 2021 – 10:30 to 11:15 EST

GULTEN TEPE: Welcome to ICANN70, GAC discussions on subsequent rounds of gTLDs being held on Monday, 22nd March. We will not do a roll call today for the sake of time but GAC members' attendance will be available in the annex of the communique and minutes. I would like to remind GAC attendees to indicate their presence, indicate full name and affiliation. For questions or comments, please type by starting and ending your sentence with question or comment to allow all participants to see your requests.

When speaking, please state your name for the record and the language you will speak if other than English. Please speak clearly and at a reasonable pace to allow to accurate interpretation and also mute all other devices. Finally, this session like all other ICANN activities, is governed by the ICANN expected standards of behavior, and you will find the link in the chat for your reference. With that, I would like to leave the floor to GAC chair, Manal Ismail.

MANAL ISMAIL, GAC CHAIR: Welcome back, everyone, this is the first of three sessions on subsequent procedure, it will be led by Luisa Paez, GAC representative of Canada, and Jorge Cancio, GAC representative of Switzerland, both topic leads. We have so many things to discuss so without further ado, I will hand it over to the topic leads. And if I recall correctly, Luisa, you will be starting?

LUISA PAEZ, GAC VICE-CHAIR: Yes, Manal, thank you. I'm just going to put my video, just making sure it works. Either way, hello everyone. This is Luisa Paez from Canada, current GAC vice chair as well as one of the topic leads on subsequent procedures. One second... it's working here. Sorry about that, I will make sure to work on the video as I am now connected with a few devices.

But without further ado, want to welcome everyone to this session, to give you a quick sense of the topics we will discuss, we will have three subsequent procedures GAC sessions for this ICANN70 meeting, and we would like the sessions to be as interactive and productive as possible,

and so these are the items of priority that we have identified based on previous GAC input as well as the last inter-sessional subsequent procedures call we had within the GAC. So we will be discussing in detail, we will be organizing the first session for today, we will be focusing on topics of clarity, predictability of application process as well as public interest commitment, PICs, and global public interest, and then the applicant support and participation of underserved regions as well as closed generic top level domains as well as GAC early warnings and GAC advice, community-based applications and auctions and mechanisms of last resort.

But we would like to see if there are other topics you would like to add to be discussed. Either we will have the intervention now or of course at any time during this session or following sessions if there are other topics in particular that you would like to discuss or raise, you are always welcome to do so. And a big focus of our discussions will be really looking at focusing on having a meaningful discussion on what would be the most appropriate next steps for the GAC to take and obviously to discuss any other business. So just taking a minute to

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see if there are any questions, and if Benedetta will let me know if there are any questions or hands raised, that would be appreciated. If not, we can go to the next slide, please. Perfect, and I think that I will turn it now to Jorge Cancio. Thank you.

JORGE CANCIO, GAC VICE-CHAIR: Hello, everyone, this is Jorge Cancio from Switzerland, for the record. I hope you hear me okay. This is just to give you a very quick overview of where we are. I think Manal already mentioned it before, in January the subsequent procedures PDP working group finalized its report and delivered it to the GNSO Council and the GNSO Council, they looked at this in February and on the 18th of February. So more or less one month ago, they adopted the final report, and now it's being transmitted to the ICANN Board regarding those recommendations and outputs from the PDP working group which received consensus or full consensus. We will go into the details when we talk about the specific subjects.

So on March 1st, we had proprietary webinar in the GAC where we had an overview and first discussion of all these issues and as you see on this slide

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on the list below, there were a number of issues raised already on that webinar which we will be discussing during ICANN70. If we go to the next slide, please. We see the next steps. We will remind ourselves about this during our last session related to subsequent procedures. But basically as soon as the recommendations reach the ICANN Board, the Board may choose to vote to start an operational design phase, ODP, as recommended by the GNSO Council, this is highly probable, and after that there will be also an opportunity for public comment to be opened on the final report, and there we might of course as the GAC provides consensus input and of course before the ICANN Board votes as is usual, they will ask the GAC if there are any public policy implications, and at that moment we may wish to provide GAC consensus advice in preparation of the Board vote. So I don't know if there are any questions on these introductory remarks? Please let me know if there are any. Yes, please.

MANAL ISMAIL, GAC CHAIR: Kavouss, please.

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IRAN: Good morning, good afternoon, evening, everybody. I have a question raised three times, one time with the Board. In the last bullet, ICANN Board vote on PDP working group final report. I have no problem you put the word vote, but I would say ICANN Board decides. Maybe they vote, maybe they do not, that is not a question -- my question is that the final report accompanied by many minority statements among which the second longest was from GAC, there was another much longer than us, 13 pages –

JORGE CANCIO, GAC VICE-CHAIR: Kavouss, sorry, you might be mistaken. The PDP we're talking about –

IRAN: Yes, there are this final report, there have been some comments.

JORGE CANCIO, GAC VICE-CHAIR: There is no minority report from the GAC, I'm sorry.

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IRAN: Not minority report; comment from the GAC.

JORGE CANCIO, GAC VICE-CHAIR: There is no comment from the GAC on that part of the final report. There was in the public comment period in September.

IRAN: In any case, those statements or comments, how ICANN Board will take that into account? They ignore that or take that into account to some extent? That is my question, thank you.

JORGE CANCIO, GAC VICE-CHAIR: Thank you very much, Kavouss, I think that is a very good question to the Board. Of course we cannot talk to the Board so we will take note of that for our bilateral with the Board. And just before going into the different topics you see on the next slides, the key topics we intend to discuss during today's session, tomorrow, and Wednesday, and we initially want to dedicate to each of the topics about 15 minutes. This means some minutes of presentation of

introduction with the slides and then open discussion as also Kavouss mentioned before to have an interactive exchange. So without further ado, I would pass the floor to Luisa to introduce the first topic which is clarity and predictability of the application process. Thank you.

LUISA PAEZ, GAC VICE-CHAIR: Thank you, Jorge. It's Luisa Paez, for the record. I will see if I can put on my video here. And hopefully it works. So we had already mentioned today we will be discussing two topics of priority for the GAC, the first is clarity and predictability of the application process and the second public interest commitment, PICs, and global public interest. And of course if at any time GAC members would like to add or raise another issue, please feel free to do so.

So if we could go to the next slide, please. When it comes to clarity and predictability of the application process, for ICANN it has been important to establish a predictable, transparent, fair process and procedures for managing issues that arise in the new gTLD program after the applicant guidebook approved. And to do so, ICANN to use a predictability framework explained in detail in Annex

A in the subsequent procedures final report. And in particular what is important for us is to understand is that it also involves creating a new standing predictability implementation review team, which we use the acronym SPIRT, which will be overseen by the GNSO Council to review potential issues that arise related to the program. They will also look at conducting analysis utilizing this predictability framework and also recommend the appropriate process and mechanism that should be followed to address the issues at hand, again, using the predictability framework agreed to. So again, this is just to give everyone, in particular GAC newcomers, the clarity and process of the application and the role of the SPIRT.

Next slide, please. And in regards to the GAC positions to date on this topic, the GAC supports the creation of a predictability framework but notes that some GAC members are not persuaded of the added value of creating the new SPIRT structure, and this has been referenced in the ICANN 68 communique. Also to note that some GAC members ask the PDP working group to consider what role the GAC could play potentially in the SPIRT, for example the idea of a potential GAC liaison. And finally, the GAC

recommended that any changes made to the new gTLD program should be transparent and shared with community members at the annual review of the IRT, which it would be very important to ensure revisions and adjustments. This is to ensure an increase and enhance transparency.

Next slide, please. So now we would really like to focus today's discussions, and we welcome everyone's views and questions in regards to considering potential next steps for the GAC and in particular for the GAC to continue to review the predictability framework with its associated SPIRT and the guidelines included for ICANN org. For example we have here questions for GAC members: Do you think the SPIRT impacts the GAC's need for flexibility to respond to emerging issues? Do you share concerns on implementation guidance, particularly 2.3 which suggested GAC consensus advice on the new gTLD adopted after the launch will need to be forwarded to the SPIRT without prior discussion between the GAC and the ICANN Board? What do you think should be the potential GAC interaction with SPIRT, for example a potential GAC liaison? And finally, should GAC provide advice to the

GNSO Council or the ICANN board be required to restate some concerns GAC members have relative to the creation of the SPIRT? So I will just stop here and take a minute to see if there are any questions or comments from GAC members. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Luisa, I can see Kavouss' hand up.

IRAN: Yes, Luisa, thank you very much. As far as I remember, no one from GAC proposed this predictability. It was proposed by other part of the community, and we have discussed that. We are not very clear. The main objective behind this predictability. To whom it serves? We are not very -- at least I am not very much in favor of the SPIRT, but what I have serious concerns about is the second bullet. That GAC consensus advice to go to the SPIRT.

According to the bylaw, our only formal [indiscernible] or counterpart is ICANN Board. No doubt if there is a policy development process, we participate like others on an equal basis, so on, so forth, but we do not -- at least I do

not, see any benefit that you create a new layer between the GAC consensus advice, if we succeed to have consensus advice, very difficult. Then you put a layer to the judgment of the SPIRT, we don't know who it will be, the composition, mandate, authority, so on, so forth, so I personally have serious concerns about this second bullet.

I have no problem that if there is a representative from GAC in the SPIRT, Jorge or you, Luisa, will indicate the composition of the SPIRT, no problem that we participate, just expressing our views, but not submitting our consensus to them to bless it or not bless it, to object it -- our advice is much higher level than anything. Our advice is similar to the policy of a GNSO or recommendation of GNSO. We don't want to downgrade our advice. This is my view. I won't go further because time is limited. Thank you.

LUISA PAEZ, GAC VICE-CHAIR: Thank you, Kavouss. Pardon me, it's Luisa, for the record. Thank you, Kavouss, for your comments. We are taking notes of all of the GAC's intervention to make sure we

captured it well and continue the discussions. So thank you very much for your comments and in particular placing the emphasis in regards to the second bullet.

I do see both Vincent from France and Nigel from the UK have their hands up, not sure who had their hand up first. But if we can have Vincent from France, please.

FRANCE: Thank you very much, Luisa, I hope you can hear me and see me okay.

LUISA PAEZ, GAC VICE-CHAIR: Very well. Thank you, Vincent.

FRANCE: Thank you very much, Luisa and Jorge, for your hard work on this very important topic. So for the record, sorry, this is Vincent Gouillart from France, and I would like to warn you that as is often the case, I will be speaking in French, so to give you time to switch.

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-- we certainly hope that we can do that at least after ICANN 71. So to go back to the case at hand, France regrets that comments from the GAC during ICANN 69 were not taken into account. France had specific comments on SPIRT, and we thought that it should be open to all advisor committees and supporting organizations, but apparently it is very limited at this point. And perhaps there is something that is not quite accurate in terms of the implementation guidance 2.3 -- I actually don't know how to say that in French -- but the implementation orientation, so to speak.

And I am not sure that it covers all of the questions or the topics that the GAC wants to address, nd the way they should transmitted to the SPIRT, and we are quite concerned in France because consensus advice from the GAC on the next round of gTLDs would be considered as needing to be transferred by the Board to the SPIRT, and that the Board might consider by default that it needs to do so but the text in 2.3 is more limited than that and calls for a future dialogue between the Board, between ICANN org, and SPIRT in order to define what it might do with GAC consensus advice regarding the next round.

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So this was just something that I wanted to bring to the table to increase accuracy. But this is worrisome. We are surprised that this future dialogue between the Board, ICANN org, and the SPIRT happen without GAC, even though it is one of our main responsibilities which is the adoption of consensus advice directed to the Board. So this detail is worrisome to us, and France would like to reiterate this concern, and we will do so when we meet with the Board. That's all I had to say. Thank you very much.

LUISA PAEZ, GAC VICE-CHAIR: Thank you very much, Vincent. I will now give the floor to Nigel from the UK, thank you.

UNITED KINGDOM: Nigel Hickson for the UK. Thank you very much for the opportunity to discuss these issues and for framing these issues this afternoon. In terms of this proposed arrangement, clearly I think one has to enter into it in a spirit of cooperation but as colleagues have identified, potential concerns including of course has GAC consensus advice transmitted and who it is transmitted to. I don't

think there is any problem where that GAC consensus advice is to the issue relevant discussed to the SPIRT, but clearly as our distinguished colleague from Iran has mentioned, it would need to be transmitted to the Board in some sense.

And the other point, of course, is that in having a liaison which I think is absolutely crucial, and thank you for pointing out that it's [indiscernible] I suspect the GAC would want that liaison function if to have it, and that liaison would I think need time and facility to report back to the GAC on deliberations and the new process before decisions were taken, but I suspect that is a given. So thank you very much for this opportunity.

LUISA PAEZ, GAC VICE-CHAIR: Thank you very much, Nigel. We still have the public interest discussion and in the interest of time, I will give Kavouss from Iran the floor. And Jeff, if you don't mind writing your intervention in the chat or if we have time a little bit after the public interest commitment, that would be very much appreciated; we just want to make sure

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we're able to go through the following to the next topic. But please, Kavouss, thank you.

IRAN:

Yes, thank you, Luisa, just in one minute. I am of the strong opinion that in no way we should give authorization to SPIRT to discuss and to decide on behalf of GAC, anything at all. We have no problem that of participating and we must participate -- although Jeff says that we may, but we should participate on the exchange of views, but we don't give them a blank check to decide on something that GAC is interested in and other parts of the committee, it would be consulted and the decision should go to the community, including GAC, for further comments. But there should be no bypassing and once again, totally not accept GAC consensus advice to go to SPIRT. Thank you.

LUISA PAEZ, GAC VICE-CHAIR:

Thank you, Kavouss. And in the interest of time -- thank you, Jeff, if you could see write your intervention in the chat, that would be very helpful. And I do want us to have a time to discuss the following topics. So if there are no more questions or interventions from GAC members, we

can go to the next slide, please. I am not seeing any other raised hands, so now, I will pass it onto Jorge Cancio, thank you.

JORGE CANCIO, GAC VICE-CHAIR: Thank you so much, Luisa. And just to note to everyone on this call from the GAC, that of course if you have any communique language you would like to propose, be it for the communique part in general or for potential advice part, please share it on the list. We are of course in your hands as the GAC leadership, and it's really up to the membership to come up with proposals on how to express these opinions, although we of course take good note of them and will reflect it in the summary we normally prepare of our discussions.

So going to the second item we have, public interest commitments, you see in the slides a very summarized, synthesized version of the final report on -- draft of the final report of subsequent procedures. There are many more issues there which might be of interest to you. On mandatory public interest commitments, important to note the existing practices coming from the 2012 round

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have been confirmed as policy for the future, that is the current mandatory PICs and the registry agreement specifications 11, 3a and b, are to be maintained in future agreements according to recommendation 9.1 of the subsequent procedures final report, a very important point.

Regarding mandatory PICs, we note in the slides as novelties, let's say, it's said singular and plural versions of the same string shouldn't be permitted. And registry agreement specification 11 3a and b, doesn't apply really effectively to such cases. Where there has been probably more discussion on what we used to call voluntary PICs, which are now the registry voluntary commitments, RVCs, reminds me of the comments of Kavouss, that we should write out and spell out the acronyms, and here the working group recommends that they should continue to be available to be used in response to public comments, GAC early warnings or to GAC consensus advice specifying whether some commitment limited in time, duration or scope to facilitate review by ICANN org and possibly an objector of the GAC.

The RVC, register voluntary commitments [reading] must continue to be included in the applicants registry agreement and must be enforceable through such contracts front of for policy recommendations on mitigating DNS abuse. The working group decided such effort should be conducted holistically, not only for the future new round top level domains but for all, generic of course under the remit of ICANN, and this should naturally apply also to legacy generic top level domains, having also a mention on ccTLDs which has been also something which has been criticized by the GAC in the past.

So if we go to the next slide, we see what I just commented. The GAC positions to date, we have expressed several times our concerns on the lack of policy recommendations on DNS abuse mitigation, I think as GAC we have been clear that we are more or less agnostic on whether this happens within this PDP or outside this PDP; the basic thing is that it has to happen before any new round starts pursuant to our [indiscernible] advice from 2019.

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There has been also strong support to have safeguards to address concerns around public interest, and we have expressed our expectations of having PICs or registry voluntary commitments for any future round, that additional mandatory PICs should be possible where unanticipated risks emerge because the recommendations seem to imply that no additional mandatory PICs should be allowed. And we have recommended the incorporation of GAC advice safeguards regarding highly regulated gTLDs into the PICs rules.

So if we go to the final slide on this issue, there are a number of questions. Of course you may raise other ones if you see fit. But first of all, we wanted to see whether the GAC wants to reaffirm that any and all registry commitments incorporated in the registry agreement must be clear and enforceable, or whether we have already further ideas and how making these public interest commitments better enforceable, how do the GAC members wish to consider the absence of policy recommendations on DNS abuse mitigating which remain as matter of priority and where we will dedicate two

specific sessions in general. So we may discuss this here in relation with SubPro, but we will of course discuss it also in general during the GAC plenary sessions.

And finally, we have highlighted here a position from the ALAC and its minority report because ALAC was one of the groups issuing a minority report here, and this is regarding the case where registry voluntary commitment is determined or ruled to be unenforceable. So I don't want to read out the text, you have it on the screen. Just give it a thought, if this is worthy of being explicitly supported by the GAC.

So mindful of time, and seeing that we have seven minutes -- or six minutes left for discussion, I will see if there are any hands raised. Yes, I see that we have -- and I haven't looked at the order, but I think we have Jaisha Wray from the US and then Kavouss from Iran.

UNITED STATES: Hello, everyone. I am the new GAC rep from the United States and really look forward to working with you all, the United States and I look forward to working with you all. We believe the

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[indistinct] poorly implemented and -- any subsequent rounds of new gTLDs, we believe any future PICs must be enforceable through clear contractual obligations and consequences for the failure to meet those obligations. So additional mandatory and voluntary PICs should remain possible in order to address emerging public policy concerns. And we strongly support safeguards to mitigate against DNS abuse such as malware, bot nets or phishing, which I know we will discuss further during tomorrow's session. Thank you very much.

JORGE CANCIO, GAC VICE-CHAIR: Thank you so much, Jaisha, we take note of that comment. I think we have Kavouss, please proceed.

IRAN: Yes, thank you very much. The third question, the answer normally yes, the views of the ALAC almost close to the views of GAC so we should stay positive to the third bullet provided that we work on the arrangement and so on, so forth. With respect to to the first one, the answer is yes, we should reaffirm the situation, and the second one, the policy recommendation is not produced by GAC nor by

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ICANN, it's produced by GNSO. If you want to tell the Board that there is a need to have that policy recommendation on DNS abuse, one of the most important, but yes, this issue will come up again in subsequent discussions about DNS abuse, and perhaps we should do that -- my view all positive in respect to all I have mentioned. Thank you.

JORGE CANCIO, GAC VICE-CHAIR: Thank you so much, Kavouss, for that clear guidance on the three questions. I wonder whether there is any other comment. Jaisha, is this an old hand? I assume it was. It's a bit tricky, we always have to recall that we have to lower the hand after raising it. And I think Benedetta has taken good note of all these comments. I feel we cannot go into the next topic which would take too long for the remaining minutes we have. I don't know if Luisa or Manal, you would want to intervene shortly.

MANAL ISMAIL, GAC CHAIR: This is Manal, I can see Kavouss' hand up, and I also would like to bring the chat to the attention of everyone also, very important discussions in the chat. So...

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IRAN: Can I proceed?

JORGE CANCIO, GAC VICE-CHAIR: Sure.

IRAN: Not withstanding [indiscernible] with the SPIRT, that is something we should discuss; however, should that be confirmed, we need to emphasize that our participation in SPIRT would be under equitable participation, not treating at EPDP [indiscernible] one committee six members and GAC three members and not in the first transition that [indiscernible] wanted only. They wanted only one GAC and I insisted and previous GAC chair agreed with me that we should have five, equal rights, equitable participation and equal rights. Please kindly take note of that.

JORGE CANCIO, GAC VICE-CHAIR: We will take note of that point. Thank you so much, Kavouss. And I think -- thank you, very much, also, Manal, for pointing to the chat. I have been seeing substantive

discussion on the first topic on SPIRT, and I'm sure that Benedetta has been watching that discussion, taking notes so that we can summarize the discussions properly.

Again, as we discussed before, tomorrow we will continue with overview and the discussion of high priority topics for back on subsequent procedures, and the first topic we will address tomorrow is applicant support and underserved regions and then closed generics and time allowing also GAC early warnings and GAC advice leaving auctions, mechanisms of last resort for Wednesday. I see a comment in the chat from the European Commission, also from the UK. Thank you so much. I think we have arrived at the top of the hour. I don't know, my co-lead in this matter, Luisa, do you want to say a final word? Otherwise, we would give the floor back to Manal.

LUISA PAEZ, GAC VICE-CHAIR: Thank you, it's Luisa for the record, nothing else from my part, just a big thank you for the fruitful discussions, comments, questions, and I will pass it on to Manal and looking forward to continued exchanges tomorrow on the topics mentioned. Thank you.

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MANAL ISMAIL, GAC CHAIR: Thank you very much Luisa and Jorge and thanks to everyone for your attention and active participation and valuable comments and feedback. So many issues remaining, and 2 more sessions so please keep the input coming. We will proceed with our discussion on WorkStream 2 but please give us a minute to get started and support staff please let me know when we are ready to start.

[END OF TRANSCRIPT]