
PANAMA – GAC: Preparation for Meeting with the ICANN Board

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MANAL ISMAIL, GAC CHAIR: Sorry we are running late. Tom has helped me compile a couple of slides to guide our discussion, and Kavous has also mentioned that had we may have other topics other than GDPR as well to raise with the board. I hope we can formulate concrete questions that we can share with the board. And as we agreed earlier, it's always helpful to share the questions with the board prior to the meeting so that we can make sure we get the answers we're looking for. So yeah, Tom, please.

TOM DALE: Thank you, Manal. While waiting for the slides, there were three sets to be flagged with the board for you to consider. Firstly questions on GDPR, and that's been a continuing part of the discussion. Secondly some questions which are proposed by China in fact concerning the board's view on jurisdiction issues arising from the account CCWG and the issue for you to frame questions if you wish to two character codes at the second level.

So the first set, the concern of the GDPR, and those questions are taken from the slides that you've already seen prepared by

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the GAC leadership. First set of issues, for your reaction, thank you, Manal.

MANAL ISMAIL, GAC CHAIR: Thank you, Tom. Okay, Cathrin first.

CATHRIN BAUER-BULST: For the European Commission, one additional question we might want to consider asking the board is how the overall governance of the different processes will be ensured. Because as we've seen, heard there's now the temporary specifications -- and we're all focusing on these individual categories but not really clear to us how the overall coordination will be ensured and whether done by the board in collaboration with the GNSO or who will be in charge there, and that would be something we would like to propose asking of the board, how they intend to ensure that's done in a comprehensive manner, will depend on feedback --

MANAL ISMAIL, GAC CHAIR: Thank you, and I think we already have a question formulated. So we will compile this and circulate the final to everyone. Kavous, please.

IRAN:

Yes, we have experience with the previous session with the board. First, do you have limit the number of questions. Because sometimes we have five to ten questions, 45-50 minutes of time. The first question takes 40 minutes then no time for other questions. I don't think we need question two or three. Does ICANN board -- sorry, questions three and four. Question 2 is very important because of the need to have perhaps a second temporary specifications as the [indiscernible] ambitious time to have the first draft in one year, have to have the charter, composition of the team, leadership, the rights, have to be consensus building, many, many things. So this is this one. But what procedure means will be used to develop, deliver an important unified access. This is also the second important question but respective role of the board and GNSO. I don't think we need to talk about that, the role of the board is quite clear, the role of the GNSO, the starting of this process in consultation and participation of other concerned parties. We don't need to take a fourth question and I don't know about the fifth question. However, we need to reduce the number of questions. So in my view, questions 2 and 3 are very important. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Kavous, and maybe we can reformulate 3 to include the fourth one in a different way. So let's come back to you with

a proposal. But frankly, I personally have an issue with question 1. And again, this gets back to your concern, Kavous, earlier, that, I mean, if we ask for reconsideration at this stage for the third GAC advice, we're going to get the same response basically. So I mean, if we need to follow up on the deferred GAC advice, maybe we can ask what would be the next step or -- we've never been through this before, so maybe we can try to ask it in another way. But I mean, reconsideration of GAC advice as it stands at this point in time, we're going to get the same answer.

So again, let's try to either reformulate or postpone our follow-up. But again, I think we can come up within something that is a follow-up without asking for reconsideration at this stage.

Any other comments on GDPR? Kavous?

IRAN:

Yes, we have to reiterate the position of the GAC [indiscernible] position of the GDPR fundamentally important, active participation in the most appropriate manner within the composition of the team and within the activities of that. If you remember some time ago, four years ago with respect CCWG first, it was intentioned not to have any member of the GAC [indiscernible] then was increased to two members, then to five

numbers. We should have active participation as a membership of the group. Thank you.

MANAL ISMAIL, GAC CHAIR: That your, Kavous. So if there are no other comments? Switzerland.

SWITZERLAND: Jorge Cancio, for the record. I concur with other colleagues that I think we can streamline these questions and boil them down to the essence which I think is whether the board is more prone to go through the temporary spec way or channel or through the EPDP. And I also want to recall one comment made on the list, that I don't think that the [indiscernible] the calzone type of process was a proposal. I think we should focus on the two options, really the temp spec and the EPDP and what is the state of mind of the board on that, and that also covers a little bit of first question because we can link the four outstanding questions or issues to okay, are you intended to deal with that through a temp spec or waiting for that issue instead of by the EPDP.

MANAL ISMAIL, GAC CHAIR: Thank you, Jorge, and I fully agree. Instead of asking them to reconsider on the deferred advice, we can follow-up

[indiscernible] on the annex of the temporary specification. Any further comments on GDPR before we move on to other topics? So if not then I take your points, we will have another iteration and circulate it soon. Yes, please, so until we get the next slide on the screen.

TOM DALE:

Thank you, that's I think the first point has already been covered in the GDPR discussion. The second question that you see there, proposed question for the board concerns the jurisdiction issues arising from the CCWG work two activities. Work stream two activities. You see it on the screen there. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Tom. Brazil,.

BRAZIL:

Thank you, Manal. I think it's okay to address this topic with the board. However, I think the way the question is framed is not appropriate. Because what was discussed within the CCWG is reflected in the report, there is a suggestion that the discussion around the issues should continue, so I don't think it's appropriate to ask what the board thinks about doing this or that. I think we need to maybe discuss with the board how to move forward with this process in which format and -- the

substance of the discussion I think shouldn't be a matter for discussion with the board.

MANAL ISMAIL, GAC CHAIR: Thank you, Brazil. So India.

INDIA: I support my colleague from Brazil about the jurisdiction recommendation in the work stream 2 report just now. And apart from that, probably there has been discussion about some implementation guidelines which are needed to be developed so we need greater clarity around what's the subject matter of those implementation guidelines which are being thought about. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you. Kavous.

IRAN: I also support Brazil. I believe the second part of the question is not necessary, does the board think immunity is part of the recommendation. We have not formally replied to the recommendation of work stream 2, something yet to be replied. But the first part of the question yes is good but the second part, I don't think we need to raise that at this stage. Thank you.

MANAL ISMAIL, GAC CHAIR: So thank you all very much. May I ask if you can formulate a question that we can share with the board and we can also share with colleagues who proposed the topic and this question at the first place. So thank you.

So moving on to the two character codes. We need to formulate, again, our question to the board or is it just going to be a statement to the board if we don't have a concrete question? Or if our question should be addressed to ICANN org maybe? So Kavous.

IRAN: We have been told since many months there would be a mechanism in order that the board or ICANN president be engaged with the government with respect to finding the ways and means to resolve these problems. We have not seen that mechanism in place yet. And I think the time is over and we need to put a very firm deadline by the ICANN 63. We need to have the mechanism in place and actively, not just a correspondence between the board and GAC members. We should know what the mechanism and how the mechanism will be implemented. This is a firm question that we have to ask of the president and CEO of ICANN. Thank you.

MANAL ISMAIL, GAC CHAIR: India, first.

INDIA: I support what Kavous, my colleague from Iran has been stating about the two character codes at the second level and it was clarified there would be a task force and pending these recommendations and the task force being accepted or considered, the release of two character at the second level is not considered appropriate and it should be put on hold until such time of the recommendations of the task force are made available and dually considered by a competent authority on subject. Thank you.

MANAL ISMAIL, GAC CHAIR: So thank you, all. I think -- US, first.

US: I'm sorry, I may have misunderstood, but there's been no GAC position on withholding the release of two character codes at the second level. Wanted to be sure that was clear. That there was agreement there should be work done with the concerned parties but again, recognizing there are others who don't mind

having their two characters released. Just wanted to make that clarification.

MANAL ISMAIL, GAC CHAIR: Yeah, I have so many responses but I am give the floor to Brazil and Kavous.

THIAGO JARDIM: Just to respond to the comment raised by the US, you are right, the concern in relation to the release of two character codes at the second level, perhaps not a GAC unified position but concerns expressed by GAC members. And the existing practice as I understand in relation to the release of two character codes was to consult with the members, the concerned members, before releasing those two character codes. So the dissatisfaction among GAC members has been expressed to the ICANN organization and to the board, and I think an appropriate question we could frame for the board in this upcoming meeting in relation to the two character code could be there might be releases of two character codes in relation to other -- in relation to the xxx, despite the dissatisfaction already expressed by GAC members.

So the board had been aware of the problem that this issue posed for a number of GAC members and despite being aware of

that, it went on and released for the triple x. I have been told that there might be further release down the line in the future, so I think an appropriate question for us to ask, and I am fully aware this might not be a unified position among members, what's process? Is there among board member -- the prospect of releasing two character codes for gTLD told which currently do not permit two character codes at the second level, and we might envisage the possibility of putting it on the board until the concerns expressed have been fully addressed.

MANAL ISMAIL, GAC CHAIR: Thank you, Thiago. Let me make comments,, and then I think regarding the task force, there has been some misunderstanding or miscommunication. So if we keep up following again, we will keep getting the same answer. But we can say that we still need for the formation of such a group and we iterate in terms of a new request rather than a follow-up on the task force.

Regarding the mechanism. At some time we were provided with a suggestion to have this platform or portal for concerned GAC members. We will be receiving a demo on 24 during the BGRI Working Group session. Maybe in light also of this discussion we can revisit our question to the board. So just providing more information for GAC colleagues to take an informed decision on

what exactly we need to ask the board. I have Kavous and then US.

IRAN:

I fully agree with Thiago. Yes, there was no consensus advised in this report, the mechanism should include for instance that asking in a specific manner the GAC members to indicate those who have concern and those who have not concern. If this is indicated with respect those who have concern then they should get into the real discussions, dialogue, how to do that. We understand that from the very beginning some GAC members; they didn't care about anything. That's that. Similar to the release of the cities and so on, so forth. Sometimes they don't have any comments, other times they have. So this is a continuation, we don't want to mix up the situation. So we are firm about our concerns. Some others don't care; that's their rights. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Kavous. US.

US:

Just to be clear, though. The ICANN board has issued a resolution. These two characters at the second level have been released, they are released, and in the resolution gTLD are

permitted to use them. They also are obliged and desire to do so to reach out to governments if they suspect [indistinct] and roles in place to deal with that, concerned with phraseology that indicates that ICANN should not releasing these names because that's already been done. Want to be sure we have our facts straight here. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, US. So let us work another iteration. I don't want to take the whole break unless Kavous, you have another burning comment.

IRAN: Yes, I fully agree the board has passed a resolution. But we contested that resolution, some of us. So I don't think that resolution is not without contestation. We contested that. Because they changed the course of actually in the middle of the process. On [indiscernible] 2016. Do not forget that, we contested that.

MANAL ISMAIL, GAC CHAIR: Brazil. Please.

BRAZIL:

I do not want to prolong the discussion on this, but I think what has been stated is correct in what colleagues have commented. Two aspects about these discussion. Substantive concern about the proceedings which GAC members differ on how they would be prepared. However, there was a unified position regarding the procedure that was followed by the GAC board, concern about transparency about the involvement of the GAC -- if there is an interest in raising the issue of the board to be in relation to that [indiscernible] in regard to the process and also the task force reflects the concern of those countries that would like this policy to be reflected upon, to have further opportunities to engage. I agree with the US that for the moment the policy that was laid out by the GAC board provides that anyone who has an agreement signed with the board for [indiscernible] top level domain can register at the second level the two character roads. That's the reality and this is something that we have been saying that decision created a [indiscernible] which unfortunately we have to live with, but I think we should continue to raise with the board the concern and try to, I don't know, mitigate at least with regard to the future if maybe there's not much that could be done in the present circumstances.

But having said that, I would like to raise another topic that should be added to the list. It is a very short topic but we were approached by the board and we know there's an interest on the

part of the board to receive updates with regard .amazon, request by the Amazon company, and basically to take one or minute and report on what took place between the San Juan meeting and this meeting, and this is good news and in line with with the task we have assigned ourselves to complete the technical reports regarding Amazon's proposal that was forwarded to the Amazon countries in Abu Dhabi and [indiscernible] the report has been submitted to the political authorities of Amazon countries, and we are expecting a decision on that. So basically this is what we would like to report.

Other questions might intervene and complement the information but unless the board will request some other clarifications, I think not much of our meeting, but maybe should be added, maybe even in the beginning, because we can rapidly deal with that and then leave time for the other topics. Thank you.

MANAL ISMAIL, GAC CHAIR: Noted. Thank you, Brazil. So as I mentioned, we will be working on a second iteration of the full list of questions and will be circulating this on the GAC mailing list for everyone before sharing with the board. So thank you very much, and apologies for running behind schedule. We have like five minutes before

our meeting with board members of the BGRI Working Group. I hope you don't mind coming back in five minutes. Thank you.

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