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PANAMA – GAC Communique Drafting – Session 1  
Wednesday, June 27, 2018 – 14 :00 to 15:00 EST  
ICANN62 | Panama City, Panama

CHAIR ISMAIL:                    So we will be putting the communique on the screen. Just give us a couple of minutes. Thank you.

We now have the communique draft on the screen. So this is basically the skeleton of the communique as well as a few informational parts. We are still pending advice draft from different colleagues, so maybe we can do a very quick read-through the current draft and then there is a coffee break at 3:00, and maybe by 3:15 we can have more substance to the communique. So are we ready to go?

TOM DALE:                        Absolutely.

CHAIR ISMAIL:                    Okay. Over to you, Tom.

TOM DALE:                        Thank you, Manal. Good afternoon, everybody. As is usual, I'll do a read-through for the benefit of the GAC members and explain at each point the status of the text or the absence -- the reasons for the absence of some text, and we'll be at your disposal at the end of that. If there are particular people working on text who are able to assist in

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giving an update on how it's all going at the relevant point during the run-through of the document, that would be helpful, I think.

So the communique begins in the normal way. The government -- the GAC met in Panama City. The current attendance numbers that we have, which are always revised, of course, because we have an imperfect system of keeping track of who is here, is that 60 GAC members and 5 observers attended the meeting. The GAC meeting was conducted as part of ICANN62. All GAC plenary and working group sessions were conducted as open meetings.

The next section deals with inter-constituency activities and community engagement, which is a long way of saying meetings that the GAC had. Normally these records of meetings just list the topics covered, and if there are specific issues to be addressed, they're addressed under the subject matter. So the GAC met with the board and discussed an update from Brazil on the .AMAZON issue. Appreciation for ICANN board and org support for the program of GAC capacity building workshops, several aspects of work relating to the General Data Protection Regulation, GDPR, and access to WHOIS data, including the unified access model, the proposed expedited PDP and coordination arrangements. Handling of issues relating to ICANN jurisdiction following the report of the CCWG accountability Work Stream 2 and two-character codes at the second level.

Meeting with the GNSO. The GAC met with members of the GNSO Council and discussed the GNSO initiative for incremental improvements to improve the efficiency and effectiveness of its PDPs

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and possible next steps in developing a policy framework for WHOIS compliance with GDPR.

Meeting with the ccNSO, the GAC discussed operations and structure of the ccNSO -- excuse me -- diversity of ccTLDs, and geographic names as TLDs.

Meeting with ALAC, which was not very long ago. The GAC met with ALAC and discussed the role of the ALAC GDPR, geographic names, ICANN Information Transparency Initiative and how it relates to the joint ALAC/GAC Abu Dhabi statement on lowering barriers, and the At-Large review. And the final part of that section reads: Cross community discussions, GAC members participated in relevant cross-community sessions scheduled as part of ICANN62, including sessions on GDPR and WHOIS.

Now, before moving on to the next section, we're now looking at areas where GAC members are either singly or in groups and hopefully in consultation tend to submit proposed text, and previously that has been by way of an email to me which has not been a terribly efficient means of editing on the run, if you like. And certainly hasn't helped my general powers of stress management. So what you see before you is the communique using the Google Docs platform. And the reason that we're doing that is to enable the full GAC support team to access the document and include, for example, submitted text in real time rather than waiting for me to do it or a break. So if you -- if text is being submitted, please don't send it to me, send it to GAC staff, gac-staff@icann.org, and I will get that, so will the staff, and the staff will

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have the capacity to include text in the document much quicker than I can while we're paying attention to other things up here. So I thought I'd just mention that slight change in procedure. It's mainly to help -- help speed things up generally to make better use of your time and certainly to make better use of the -- not just myself but the full range of GAC support people who we have here. And as you know, at some point I'm not going to be here in -- after the end of the year, so other ways of putting the communique are being trialed. So GAC staff is the place to send in any text for those. So the next session, again, is in accordance with the GAC's usual ordering of communique covers internal matters. GAC membership. The GAC welcomed Ecuador as a new member. This brings the number of GAC members to 177.

GAC working groups. There's a report there from the Public Safety Working Group, the PSWG, supported the GAC's deliberations related to WHOIS compliance with GDPR, in particular with respect to the 3K developments, the temporary specification for gTLD registration data, the unified access model, and a possible expedite in policy development process to be initiated. Views of the GAC were conveyed by the PSWG's co-chair in the two cross-community sessions held on these matters. In the meantime, PSWG members engaged with GNSO stakeholders and the technical community to provide expert input into current discussions and contribute to the design of practical solutions to ensure appropriate access to WHOIS data. The PSWG met with the security and stability advisory of ICANN, SSAC, to explore areas of possible collaboration with the GAC and discussed the SAC 101 advisory regarding access to the main known registration data.

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And finally, consistent with its strategic goal to develop participation, the PSWG welcomed the three participants from Germany, Norway, and Sweden thanks to the support of EUROPOL's EMPACT program. E-M-P-A-C-T.

The second report of a GAC working group there is from the GAC human rights international law working group. This was provided by the current lead of that group, Jorge Cancio from Switzerland. It reads, The working group discussed internal matters, including the potential to add new members to the working group leadership and the process for updating its current work plan. These issues will be addressed intersessionally. An update on the further ICANN process for adopting the Framework of Interpretation and considerations relating to the human rights core value expressed in the ICANN bylaws was shared. The working group members will share and develop intersessionally ideas on potential implementation of the HRCV within the GAC for further discussion at ICANN63 as appropriate.

In relation to the GAC Underserved Regions Working Group, I know that the leads from that group are preparing some text. It hasn't yet been finalized. When you finalize it -- where are you, Pua? There you are. If it can be sent to GAC staff, then GAC staff will be able to include it in the document and we might get back to it in this reading. That's how it's supposed to work.

There is a section there now dealing with the BGRI session. It reads, The BGRI met in GAC plenary session and reviewed progress on the ICANN action request register and provided feedback. Were briefed by

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ICANN org and provided feedback on a web platform for information on two-character country codes at the second level and noted the board's proposed timeline for responding to the GAC ICANN62 communique. I should explain the text for these sections is non-contentious, I hope, so it was prepared by myself.

Independent secretariat, that was prepared by myself. Although it anticipates, to some extent, some positions the GAC may take at this meeting but the proposal is that it would read, The GAC noted that independent secretariat services provided by the Australian Continuous Improvement Group will cease at the end of 2018. That is a fact. The GAC will work on possible alternative arrangements and review developments at its meeting at ICANN63.

There's a section headed other issues which the GAC has used in the last few communiqués. For enhancing ICANN accountability, I think there are some other possible versions of text that a number of namers were working on, including Brazil, Canada, and a number of other countries, but I'll run through the text that are here first and then may be an amended version after the break. At the moment it reads, Several GAC members reiterated major concerns regarding the report from the new subgroup on jurisdiction. These members consider that it falls short of the objectives envisaged for Work Stream 2 and that its recommendations only partly mitigate the risks associated with ITN's subjection to U.S. jurisdiction. Several GAC members welcome the recommendations on jurisdiction and stressed in particular the importance of industry having options, including a menu for choice of law and venue for contracts with ICANN. At this

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point I should mention that a lot of this text was also used in the San Juan communique, but this is what I was asked, half an hour ago, to include. So it's up for discussion.

In relation to the discussion on jurisdiction, GAC members took note in the acknowledgment by the Cross-Community Working Group that further discussions to address unresolved concerns are needed.

What follows is some new text. It reads, In line with the acknowledgment of the need for further discussions of jurisdiction-related concerns, the GAC, in its face-to-face interaction with the ICANN board, asked board members whether they could already identify options for continuing discussions on aspects of ICANN jurisdiction that will not be resolved by the CCWG accountability WS2 work. The board responded that those issues will be considered when they receive the CCWG report.

The GAC reiterates its support for the open multistakeholder process by which the recommendation to develop them will continue to remain actively engaged with the work of the CCWG. As I say, that was submitted by Brazil and some other members a little while ago, and I think some alternative wording may be in preparation.

But to quickly move on. New gTLD policies, Work Tracks 1-4. This is (indiscernible) by the Secretariat. The GAC was briefed by the co-chairs of the new gTLD subsequent procedures PDP. It was noted the GAC consideration of the initial report for work tracks 1-4, to be published shortly, will take some time and the GAC's discussions may extend to ICANN63.

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In relation to new gTLD policies, Work Track 5, geographic names. GAC members participated in the Work Track 5 working sessions held at ICANN62. Several GAC members expressed concern that the timeline for this work should allow for the complexity and sensitivity of many of the issues. The high-level governmental meeting Barcelona. The GAC was briefed by the government of Spain on latest developments with regard to the high-level governmental meeting to be held in Barcelona as part of ICANN63.

The next section deals with consensus advice to the board. Now, firstly, in relation to WHOIS compliance with GDPR, we were advised that text was still being worked on but that it should be available by the break, which is due at about 3:15 or thereabouts, if that's -- I might just pause there and ask anybody who's -- who knows, is that still the case? Somebody's nodding. Okay. So after the break something will be available. Is that what we're saying? Everyone's nodding. Thumbs up. Thank you. And I'm sorry, some GAC members were wondering about Latin phrases popping up here. That is a -- a printer's convention for dummy or holding text which is included there. It actually comes from -- it's a not quite complete extract from some works of Cicero, the Roman statesman. But you probably didn't need to know that. The -- so the GDPR text is being worked on by a number of -- excuse me, by a number of members, as was indicated earlier, and should be available after the break. Excuse me. The next section deals with IGO identifiers. This was material -- this text was submitted by WIPO on behalf of other -- or in consultation with other IGO interests earlier in the week, so I'll read it through. The GAC advises



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the ICANN board to one, maintain temporary protections of IGO acronyms until a permanent means of protecting these identifiers is put into place. Two, work with the GNSO and the GAC following the completion of the ongoing PDP on IGO-INGO access security rights protection mechanisms to ensure that GAC advice on protection of IGO acronyms is adequately taken into account. Also, in any related board decision. And three, provide an update to the GAC on ICANN assistance for ensuring the accuracy and completeness of the current list of IGO identifiers.

And there is a rationale provided there, and for the benefit of new members of the GAC, the bylaws now require consensus advice to include a rationale.

The rationale reads:

The GAC continues to await the long-delayed completion of the PDP on IGO-INGO access to curative rights protection mechanisms. As to (i), this PDP will have a direct impact on a permanent means of protecting IGO identifiers, which has been the subject of longstanding and consistent GAC advice. As to (ii), the GAC provided input to the PDP's draft report in 2017, notably on the issue of IGO immunities, as did individual members and observers. The final report should reflect that substantial input, noting that current indications are that the PDP recommendations will not adequately reflect the GAC's advice on this topic. The GAC remains open to discussions with the GNSO and the Board to ensure that this is the case. The temporary protections currently in place for IGO acronyms must remain in place until such

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time as the Board makes a decision regarding the most appropriate means to provide a permanent means for protecting these identifiers given the irreparable harm that could result if these acronyms are released from the temporary reserve list before a permanent mechanism is established. As to (iii), the GAC has additionally previously advised the ICANN Board to allocate at least minimal resources to ensuring the accuracy and completeness of the reserve list but is not aware of any progress on this issue.

The next session again has some holding or dummy text in relation to two-character country codes at the second level. My understanding is that a number of countries -- including Brazil, India, I think Australia and others -- had been looking at some text on this issue. I'm not sure of precisely what its status is at the moment. If anyone can clarify that as we're looking at lorem ipsum.

Sorry.

UNKNOWN SPEAKER: It's still being worked on. We hope to have it with you shortly.

TOM DALE: Thank you.

And there is a section dealing with follow-up on previous advice, but at the moment that has nothing in it.

And finally, as is usual, the concluding text is the GAC will next meet during ICANN63 in Barcelona, scheduled for 20-25 October 2018.

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So that's the first reading.

Thank you, Manal.

CHAIR ISMAIL:

Thank you very much, Tom.

So the few comments from my side, if there are no comments from the floor. So, yeah, Olga, please.

OLGA CAVALLI:

Thank you, Manal. Thank you, Tom. I just sent to the GAC list the GAC advice that we agreed in the Copenhagen meeting about the two-character letter codes at the second level. Maybe that's a good reference because it's advice on the issue. And that could be considered for being included or reiterated in our GAC advice in this meeting.

Thank you.

CHAIR ISMAIL:

Thank you, Olga.

I understand there is a group drafting for this section, so if you can kindly try to incorporate this with the draft that is currently.

TOM DALE:

(Off microphone)

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CHAIR ISMAIL:                            Yeah. I think Australia and Brazil are already working on something. So...

So, yeah. I have a couple of comments, and then I'll give Iran the floor.

I don't see the elections mentioned here. Should we say something in internal matters that elections will take place in Barcelona or...

I'm just asking about the norm. What did we do before?

TOM DALE:                                    The staff may be able to provide better advice than me, but I think the last time the GAC did not provide that much advance notice of the pending elections. But having said that, I can think of no reason why it should not be included, but nominations will be called over a certain period. I'm happy to do that. I don't think there's a major problem one way or the other, Manal.

CHAIR ISMAIL:                            Thank you, Tom. My other comment is regarding NomCom. I understand there would be a meeting for the NomCom working group tomorrow. So since we're listing all working group meetings, so maybe we're missing the NomCom as well.

Olga.

OLGA CAVALLI:                            Thank you. I sent also to the list a very short suggested text, because the idea is to analyze a very short text in plenary. So -- but I don't

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know if it will be accepted or not. So I just mentioned that we will analyze the text. The working group will analyze in plenary the text. This is the text I sent to the staff and to the list.

And also, if I may ask another -- make another comment about the participation of the GAC in the Cross-Community Working Group Work Track 5. In the version that I read, it was mentioned two times. It was mentioned only in the lower section. I think it should also be included in the section that talks about the different cross-community meetings that the GAC participated in.

That's a suggestion.

Thank you. I also send it to the list.

CHAIR ISMAIL:

Thank you, Olga.

I have a few other comments, but sorry, Iran, to keep you waiting. Please, you go ahead first.

IRAN:

No problem, Manal. Just first of all, I agree with you that we should mention something about the elections because of the deadline for preparation, so on, so forth. That's good. And as Tom mentioned, there is no reason why we should not mention that.

With respect to the IGO as far as I remember, and I attending the GAC, has always (indiscernible) an issue. Always.

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So we should start to have some sort of deadline saying that GAC expects that this matter will be satisfactorily resolved before ICANN - GAC 60x, or whatever.

I think it is continued, and so on, so forth, we're repeating the same thing. We should a little bit put more emphasis that because of the importance.

The reason, Manal, is that in October/November we have plenipotentiary conference of the ITU, and they are very much interested on this issue. And in fact one of the topics that directly or indirectly reflected in the council of the ITU is the fate of this because all government are interested in the matter.

So perhaps we should put something just for consideration. Just a food for thought. I'm not suggesting 60x or 70y, but at least we should start to do something. We cannot wait. We wait for years to have one, (indiscernible), GNSO, PDP, and so on, so forth. You know, that everything, it just starting together. We have these five tracks, and then we have the EPDP, we have the other one, we have...

So at least we have to be a little bit more. So this is just for suggestion by colleagues to consider whether we should put some and call them expecting that. Expectations.

Thank you.

CHAIR ISMAIL:

Thank you, Kavouss.

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I will defer to WIPO, maybe, to look to the text. I understand also that there was a meeting during lunchtime between -- on the IGO subject. So we may need to revisit the text.

Frankly, this text was shared very early during the week. So maybe it needs to be fine-tuned.

So my other comments are regarding the bilaterals we had. And my question is should we also acknowledge our meeting with IPC BC, with ICANN Org on the model, and with the registries and registrars a while ago?

Okay. I see nodding.

So -- yeah. Indonesia, please.

INDONESIA:

Yes. Ashwin, for the record.

Just to reiterate what you mention, Manal. I think we need to say to appreciate the meeting with all other organizations. When it's a bilateral meeting with other organization, I think we should say our appreciation for that.

And, secondly, what my friend Kavouss mentioned, how we will put some sort of deadline, because there are many items which is going on and on and on without the deadline. Not only the -- what you call it? IGO names. I remember in International Red Cross, ICRC Indonesia met me a several years ago, and until now they still ask me and I cannot say anything.

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But not only that. We still have geo names. We still have others. And just want to get the idea of all GAC members whether we will put -- we'll push the ICANN Board for particular deadlines. And if it is yes, then perhaps not only IGO but for also others. Otherwise, we'll say we'll do it in a -- we can do it on a more polite way for other matters which is not so important, for example.

Thank you.

CHAIR ISMAIL:

Thank you, Indonesia.

Just very quickly, I certainly feel that it's good to have things progressing, but I would also put deadlines based on our discussions. So I'm saying this because we might not know all the factors or what will influence the implementation of what we're asking for, so we might ask for something that's not practical and may end to the Board rejecting the GAC advice.

So I would advise that we discuss what we have in mind during the sessions, agree on the feasible deadline, and then make sure we reiterate it in our communique. Because unless people are confident with certain deadlines. So Kavouss, please. Iran.

IRAN:

Yes, Manal, you are absolutely right. There are other elements, and we need to be quite careful not to put in something which is not practical. However, as I mentioned, that we put in the terms of "expected" and



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also add to see the first sign of permanent protection, and so on, so forth. We have to have a little bit -- inject a little bit more element on that.

Having said that, you give me the floor, I think with respect to the GDPR we have to also mention about the EPDP and saying that GAC is -- was recognized in the Cross-Community Working Group as a -- one of the fundamental and major one of the constituency that is expected or is involved in this issue and they -- or its participation was warmly acknowledged, and so on, so forth.

So we have to give this message that we are interested and we must be aware and this is (indiscernible) because that is the issue that I think Tom put it in the proper wording saying that due to the fact that major element of GDPR related to the public policy issues for which GAC is identified in the bylaw as one of the entity, if not the sole entity, dealing with this matter.

So we need to give this signal to the outside, because I have been asking every meeting by colleagues outside, "What is the GAC reaction on that? Do you participate? Do you actively participate? Do you follow-up?" and on, so forth. This is very important in view to the very short. So I suggest perhaps one or two paragraph be drafted in that sense.

Thank you.

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CHAIR ISMAIL: Thank you, Kavouss. And, frankly, I expect to see the EPDP also included with the GDPR part of the advice. So, yeah. And I see nodding. So we still have to see how -- how the draft is, and then maybe fine-tune it if necessary to reflect anything that may be missing.

Kavouss, please.

IRAN: Yes. As you know that we, at least our government, is fully -- is not "fully" -- is concerned about the jurisdiction. However, we should also be quite positive about this activity, and any appreciation, acknowledgment should come at the very beginning of the text; that this work and efforts made was acknowledged and appreciated and so on, so forth. We have to try to put even if we have concerns, concerns in a more positive manner; not be shown as that we undermine or underestimate and so on, so forth.

There are two different things. The activity was done, work was done, but there are concerns of some peoples, sometimes due to the circumstances, even was outside the -- the mandate of -- not mandate. Outside the possibility of jurisdiction groups. I don't want to give at least one, but at least one issue that is in hand of other government, but they (indiscernible) to the extent of..

So have to be a little bit more -- put in a more positive manner not to give the impression that in one way or other we are not properly

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appreciating the actions. While saying that, we give our concerns. No problem. Concerns should be given, but in another manner.

This is just by way of suggestion.

Thank you.

CHAIR ISMAIL:

Thank you very much, Kavouss. And, indeed, we need to be positive. I like your constructive way, and we will look again into the text.

So in lack of other comments, maybe we should pause for now to reflect the comments we have already and to give a chance to those who didn't finish the drafting, to provide us with a draft.

And, Kavouss.

IRAN:

Manal, you forgive me if I intervene. I think with respect to the new gTLD subsequent round, we should also express the difficulty that GAC encounters in view of the available resources and other means to participate in all these Work Track 1 through 4, and so on, so forth, and also mention about Work Track 5 that some of the issues need to be looked at in a more positive term and that reflects the concerns of the countries in respect to the names of capital cities or major cities. And whenever there is a proposal or suggestion, should be based on some logics. Very, very general.

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I don't want to (indiscernible) in the communique, in the part, but the one I'm thinking now. For instance, we don't (indiscernible) 500,000 (indiscernible) the population of city. We don't mention that. We mention that any proposals should have a logic, should have a rationale, should have a length mass is I, should have something, and so on, so forth. And one thing that I mentioned yesterday, we should avoid to get into the political notions of anything, and so on, so forth, about minority or majority in a country with respect to a specific group of people. This is not our business. We have -- we Don't need to mention that, because it's mentioned here, that some minority may oppose to the name to the government. We should not reflect that. We should be neutral. So this is just, again, for consideration to have some very, I would say, lightweighting paragraph on these matters.

Thank you.

CHAIR ISMAIL:

Thank you, Kavouss, and thanks, everyone, for the valuable input.

So let's pause here, if you don't mind, to reflect the input we got in the communique and to allow, as I said, GAC colleagues who are working on drafts of certain GAC pieces of advice also to finish their drafting.

There will be a coffee break, I understand, from 3:00 to 3.15. So let's meet here at 3.15, and I believe by then all football matches will be over, so it will be a good opportunity that we (laughing) try to start finalizing the communique.

So thank you, all, and see you at 3.15.

[ Break ]