

## **Draft Plan for the Joint GAC/GNSO meeting in Nairobi**

### **GNSO Proposal for the Joint Meeting**

The GAC proposed the first two subject areas below and the third was suggested in the GNSO. Each could be discussed for up to 20 minutes, or we could select two of the three to discuss for a half hour each. Included below are examples of the kinds of questions we might consider addressing under each heading.

#### **1. New gTLD Implementation and Expressions of Interest**

##### *a. Clarification questions from the GNSO:*

- i. Do GAC members have any remaining concerns with respect to geographic and intellectual property protections?
- ii. The GAC proposed that some additional studies be conducted before new gTLDs are launched; what negative effects, if any, could be foreseen if such studies are not completed before the launch?
- iii. The GAC has questioned the desirability of a single fee structure for new gTLDs. How might variable fees affect market entry and the larger Internet environment? How would they impact the distribution and recovery of costs?
- iv. The GAC has raised a number of concerns about the suitability and time frame of the EOI model. Does it have specific suggestions as to how the model could be improved, or a superior alternative model to suggest?

##### *b. Questions or comments from GAC members:*

#### **2. The Affirmation of Commitments**

##### *a. Clarification questions from the GNSO:*

- i. How would GAC members define the meaning of the "public interest" in relation to ICANN's identity and mission?
- ii. Do GAC members have any specific suggestions on how ICANN's various bodies, such as the GNSO, could more effectively embody public interest standards in their work programs?
- iii. Do GAC members have any thoughts or expectations regarding the relevance to the GNSO's policy development process of any recommendations that may be advanced by the AoC Accountability and Transparency Review Team?

##### *b. Questions or comments from GAC members*

### **3. ICANN in the Wider International Environment**

#### *a. Discussion questions from the GNSO:*

- i. Can GAC members explain the relationship to ICANN in general and to the GAC principles in particular of the ongoing intergovernmental discussions (e.g., in the ITU and CSTD) concerning Enhanced Cooperation on Globally Applicable Public Policy Principles?
- ii. Can GAC members help us to understand the objectives and prospects of the various other proposals that have been advanced in the ITU (some of which could be taken up by its October 2010 Plenipotentiary Conference) concerning such topics as the provision of registry services, the harmonization and coordination of ccTLD policies, internationalized domain names, the interface between international laws and treaties and Internet governance, security and stability, IPV6, dispute resolution, and so on?

#### *b. Questions or comments from GAC members*

## **Attachment A – BACKGROUND for GNSO Councilors**

### **GAC Communique Seoul (attached) – items of interest to GNSO**

<http://gac.icann.org/communiques/gac-2009-communique-36>

#### **III. New gTLDs**

The GAC provided ICANN with extensive comments on the DAG version 2 in its letter to the Board dated 18th August. The GAC appreciates the reply provided by the Chairman of the Board on 22nd September. Following discussions in Seoul however, both between GAC members and with other stakeholders, the GAC feels that many of its concerns remain outstanding, related in particular to:

- the need to take full account of the security, stability and resiliency issues including those identified in the recent root scaling reports. These concerned the potential cumulative effects of changes resulting from the introduction and implementation of DNSSEC, IDNs, new gTLDs and IPv6;
- the importance of further economic studies to improve the community's understanding of all the costs, benefits and market impacts;
- the need for more effective protection of intellectual property rights;
- the ongoing discussions within the community regarding structural separation between registries and registrars, price caps and the potential impacts on competition in the DNS market;
- the need to explore track differentiation between categories;
- the need to respect national public interests and sovereign rights regarding strings with geographical meaning;
- the need to assist developing countries which would otherwise be constrained by their limited access to financial and technical resources.

In the expectation that a new draft of the Applicant Guidebook will be issued, the GAC does not intend to comment at this stage in detail on version 3. The GAC therefore intends to provide more comprehensive comments to the Board before the next meeting in Nairobi.

#### **IV. Affirmation of Commitments**

The GAC endorses the focus of the AoC on the commitments, by ICANN, to ensure that decisions made related to the global technical coordination of the DNS are made in the public interest. That is in particular that they are transparent and accountable to the global community; preserve the security, stability and resiliency of the DNS; promote competition, consumer trust, and consumer choice in the DNS marketplace; and facilitate international participation in DNS technical coordination.

The GAC recognizes that it has a key role under the new agreement, not least given the emphasis in that agreement on the need for ICANN to act in the public interest, but also specifically in terms of the GAC's role in the formation of the review teams.

#### **V. The ICANN Board / Governmental Advisory Committee (GAC) Joint Working Group (JWG) on the Review of the role of the GAC**

The JWG held its first face-to-face meeting in Seoul. The JWG reviewed and agreed on its terms of reference (attached as Annex B). JWG members also began an exchange on several of the issues and priorities for consideration by the JWG. The next face-to-face meeting will be held at the ICANN Nairobi meeting.

#### **VIII. Work Program 2010**

The GAC identified the following priorities for 2010:

- implementation of the Affirmation of Commitments
- security, stability and resiliency of the DNS,
- the ICANN Board / Governmental Advisory Committee (GAC) Joint Working Group (JWG) on the Review of the role of the GAC
- follow-up to IDN ccTLD introduction under the fast track procedure and contribution to the IDN ccPDP,
- introduction of new gTLD,
- IPv4 depletion and deployment of IPv6

#### **Annex B**

##### **Terms of Reference Joint Working Group (JWG) on the Review of the Role of the GAC**

The Governmental Advisory Committee was established by Section 2, paragraph 1 of Article XI of the ICANN bylaws. Specific activities of the GAC are described in sub-paragraphs a and f through k and the GAC Operating Principles, dated 5 April 2005

##### **Objective 3 GAC liaisons to the ICANN Supporting Organizations and Advisory Committees** GAC Communiqué—Seoul

ICANN Bylaws Article XI, Section 2, Paragraph 1g provides for the establishment of liaisons from the GAC to ICANN Supporting Organizations and other ICANN Advisory Committees.

The continued evolution of ICANN and its policy development processes has

further led to an increased focus on the nature of GAC interaction with other parts of the ICANN community.

The joint working group shall:

identify each of the liaisons, analyze the mode of operation of each of these liaisons, the effectiveness of their operation, and whether improvements can or should be made to facilitate GAC work with ICANN Supporting Organizations and other ICANN Advisory Committees.

examine the effectiveness of GAC interaction with other parts of the community, particularly related to ICANN's policy development processes, and whether improvements can be made to these arrangements.

## **Attachment B**

### **Governmental Advisory Committee Operating Principles**

(Confirmed and Adopted 25 May 1999 ) ?April 2005 Amendments

#### **ARTICLE I – SCOPE OF THE GOVERNMENTAL ADVISORY COMMITTEE**

##### **Principle 1**

The Governmental Advisory Committee (GAC) shall consider and provide advice on the activities of ICANN as they relate to concerns of governments, multinational governmental organisations and treaty organisations, and distinct economies as recognised in international fora, including matters where there may be an interaction between ICANN's policies and various laws and international agreements and public policy objectives.

##### **Principle 2**

The GAC shall provide advice and communicate issues and views to the ICANN Board. The GAC is not a decision making body. Such advice given by the GAC shall be without prejudice to the responsibilities of any public authority with regard to the bodies and activities of ICANN, including the Supporting Organisations and Councils.

##### **Principle 3**

The GAC shall report its findings and recommendations in a timely manner to the ICANN Board through the Chair of the GAC.

##### **Principle 4**

The GAC shall operate as a forum for the discussion of government and other public policy interests and concerns.

##### **Principle 5**

The GAC shall have no legal authority to act for ICANN.

## **Attachment C**

ICANN Bylaws - <http://www.icann.org/en/general/bylaws.htm#XI>

### **Section 2. SPECIFIC ADVISORY COMMITTEES**

There shall be at least the following Advisory Committees:

#### **1. Governmental Advisory Committee**

a. The Governmental Advisory Committee should 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.

b. Membership in the Governmental Advisory Committee shall be open to all national governments. Membership shall also be open to Distinct Economies as recognized in international fora, and multinational governmental organizations and treaty organizations, on the invitation of the Governmental Advisory Committee through its Chair.

c. The Governmental Advisory Committee may adopt its own charter and internal operating principles or procedures to guide its operations, to be published on the Website.

d. The chair of the Governmental Advisory Committee shall be elected by the members of the Governmental Advisory Committee pursuant to procedures adopted by such members.

e. Each member of the Governmental Advisory Committee shall appoint one accredited representative to the Committee. The accredited representative of a member must hold a formal official position with the member's public administration. The term "official" includes a holder of an elected governmental office, or a person who is employed by such government, public authority, or multinational governmental or treaty organization and whose primary function with such government, public authority, or organization is to develop or influence governmental or public policies.

f. The Governmental Advisory Committee shall annually appoint one non-voting liaison to the ICANN Board of Directors, without limitation on reappointment, and shall annually appoint one non-voting liaison to the ICANN Nominating Committee.

g. The Governmental Advisory Committee may designate a non-voting liaison to each of the Supporting Organization Councils and Advisory Committees, to the extent the Governmental Advisory Committee deems it appropriate and useful to do so.

h. The Board shall notify the Chair of the Governmental Advisory Committee in a timely manner of any proposal raising public policy issues on which it or

any of ICANN's supporting organizations or advisory committees seeks public comment, and shall take duly into account any timely response to that notification prior to taking action.

i. The Governmental Advisory Committee may put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies.

j. The advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the ICANN Board determines to take an action that is not consistent with the Governmental Advisory Committee advice, it shall so inform the Committee and state the reasons why it decided not to follow that advice. The Governmental Advisory Committee and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

k. If no such solution can be found, the ICANN Board will state in its final decision the reasons why the Governmental Advisory Committee advice was not followed, and such statement will be without prejudice to the rights or obligations of Governmental Advisory Committee members with regard to public policy issues falling within their responsibilities.