EC paper on ICANN: GAC

EUROPEAN COMMISSION

ICANN – informal background paper

A more efficient and more effective GAC

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1. General description of the issue

The GAC has a broad membership (more than 100 independent countries and territories of which about 40 members are active, to varying degrees, in GAC discussions) and has provided ICANN with substantive public policy advice on a number of issues in recent years.

At the same time, the GAC is facing increasing levels of complexity across more numerous areas in ICANN policy making as the DNS market has become more dynamic and complex itself. This calls for even higher levels of organisation, preparation and productivity from the GAC if it is to continue to fulfil its role in the multi-stakeholder policy making model for the DNS. Moreover, this evolution needs to happen at a time when the Board have started to reject GAC advice, raising concerns among some GAC members that the advisory nature of the GAC may lead to the situation in which governments would consider this process as not worth their participation

Put simply, for the multi-stakeholder model to work, GAC members must be convinced that the significant investment in time and money involved in participating in the GAC is justified, and that GAC advice is taken seriously by the Board (NB: hence the link with improving the governance of the ICANN Board). In parallel, the efficiency of the GAC must be improved to enable the GAC to execute its mandate properly if it is not to be criticised for inappropriate or late input to the multi-stakeholder policy making process. The launch of the new gTLD process will involve the GAC having to express itself on public policy issues within very short time-frames, often no more than 60 days. This requires an efficient work flow process and dedicated support from a professional and adequately resourced GAC secretariat.

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2. Possible solutions of the problem

The ICANN by-laws should be amended to ensure that consensus GAC advice is accepted as reflecting the global public interest, and should ICANN wish to reject such advice, it would bear the burden of demonstrating that the GAC advice would conflict with ICANN's legal obligations or create problems for the stability or security of the Domain name System. In such cases, the Board and the GAC should then agree an

alternative approach to meet the public policy issues concerned.

The current working methods of the GAC must be urgently reviewed. In parallel, the GAC secretariat must be reinforced in terms of capacity and efficiency to ensure that GAC meetings and GAC inter-sessional activities are better organised and that GAC members are better prepared to deal with a wide range of complex and inter-related issues. The GAC secretariat should be able to fulfil its role without having to rely on ICANN for support (e.g. web site hosting).

The level of participation by GAC representatives must be at an appropriate level based on sufficient inter-agency consultations in capital on key public policy issues. GAC representatives should therefore be at an appropriate level and come from the public authorities responsible in their jurisdictions for the DNS, providing them with a mandate to speak on behalf of national government on all issues before the GAC.

Chairmanship of the GAC should not be combined with simultaneous national responsibilities. To reflect the responsibilities of the GAC within the ICANN governance structure, the role of the GAC Chairasas a member of the ICANN Board should be renonsidered. For instance, GAC Chair may attend ICANN Board meetings in officio.

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3. Possible implementation of the solution

The ICANN Board and the GAC should initiate discussions on changing the by-laws to strengthen the role of GAC advice in ICANN policy making, and to recognise the primary role of the GAC in identifying (on a consensual basis) the global public interest. A firm deadline should be set for concluding these discussions and implementing changes to the by-laws.

The ongoing review of the GAC operating principles has been delayed for some time and must be prioritised, not least to address the relevant recommendations of the "Accountability & Transparency" review team. This includes clarification of what communications from the GAC to the Board constitute formal GAC advice as foreseen in the by-laws and how GAC advice is formulated.

There needs to be agreement at the political level that GAC members will commit sufficient resources to GAC processes and be represented at a sufficiently high level to ensure the political legitimacy of GAC advice.

Consideration should be given by GAC members to providing additional resources (on a pro-rate basis) to enhance the GAC secretariat which is currently relatively under-staffed and inexperienced. For instance, this could take the form of direct financial support Moreover, it will be important to put the GAC secretariat quickly on a more sustainable footing given the expected increase in work and activities for the GAC starting in early 2012 with the launch of new gTLDs. Failure of the GAC to play its full role according to the agreed time-table for the launch of new gTLDs will affect its credibility in the multi-stakeholder governance model.

4. Timeline for implementation of these modifications

    a. Discussions with the Board on how ICANN intend to identify, with the GAC, the "public interest" element of new gTLD applications should begin already in the next meeting in Senegal in October.

    b. GAC members should target the end of the Senegal meeting for completion of the revision of the operating principles.

    c. GAC members should initiate discussion immediately on how they can reinforce the resources available to the GAC secretariat.