
BARCELONA – GAC: Preparation for the Meeting with the ICANN Board

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MANAL ISMAIL, GAC CHAIR: So, final call for taking your seats because we're going to start right away. And I will hand over to Tom to take us quickly through what we have initially prepared for our meeting with the Board so that we can fine tune it and if there are any concrete questions that need to be formulated we can do this and share it with the Board before our meeting on Tuesday. So, over to you, Tom.

TOM DALE: Thank you, Manal, good afternoon, everybody. I will go through each of the items that we have here and then explain where they came from, and then hand back to Manal for any comments, what you might wish to make.

The GAC has, of course, just spent a long time talking to Board members, but both the GAC and the Board are looking forward to another meeting in a few days time on Wednesday, and that is when the GAC and the Board will have a full face-to-face meeting. The GAC has the opportunity to raise any issues that it wishes with the Board, and then the Board can ask questions of the GAC.

Some weeks ago comments were sought on some possible topics to raise with the Board at this face-to-face meeting, which is coming up on Wednesday, and the leadership group agreed on a small number of

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topics which were flagged to the Board about three weeks ago. This is the usual practice. It is also the usual practice to have a preparatory session to update those issues which are almost always added to or quite different from the ones the GAC thought it might want to raise a few weeks ago. So, I will run through these topics now and explain where each of them came from.

The first issue proposed to be raised with the Board on the screen there you see, has been suggested by Switzerland, and I will read it out for you. This is to the Board for the meeting on Wednesday, remember. “To note a work in progress achieved in the process of reconciliation of the GAC’s longstanding advice and GNSO’s past policy recommendations on the protection of the Red Cross and Red Crescent designations and identifiers, and specifically to welcome the GNSO’s recent recommendations on this matter, and invite the Board to adopt such recommendations at the soonest opportunity while maintaining temporary protections on other still unresolved issues.” That is acronyms and initials. So that has been suggested by Switzerland.

The second item for rising with the Board is as follows, and this was previously flagged with you by the leadership group. It reads, “What does the Board see as next step in attempting to reconcile conflicting advice between the GNSO PDP and the GAC, with regard to IGO, INGO Access to Curative Rights Protection Mechanisms.” And on that matter you will recall the GAC has already had a session discussing this issue yesterday.

The third proposal is asking, “What is the process and timing for delivery of a Unified Access Model?” And you will recall that there was some discussion and briefing earlier today on work on the Unified Access Model, which is an element of the work on GDPR and WHOIS.

The fourth suggested issue to flag with the Board is, and again, that this was raised earlier today by Indonesia, as I recall, “Are there currently any similar legal proceedings to the ICANN versus EPAG case in Germany, will the outcomes of the EPAG case be confined to Germany or have boarder implications?” And if you could just scroll down, please. Gulten, if you’d be so kind. Thank you.

The next point was a query raised in discussion this morning by Belgium and it reads, “When the Registration Data Access Protocol, RDAP,” and RDAP for your information is the new WHOIS proposed in the tempory specification, “will the RDAP provide for data exchange or data storage?” And finally, there's a question which is partly obscured there, but again, this was a question that was circulated to you some time ago and nobody had a concern with it, and this is asking the Board, “What is the Board’s initial reaction to this week's high-level governmental meeting?” That will take place tomorrow, so the Board will have had two days to reflect on the outcomes.

That is the first run-through of those questions, and the GAC is, of course, free to suggest and agree on an order in which it wishes to have those matters raised with the Board. Thank you, Manal.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Tom. So, if we can go up again to the very first question or remark and seek feedback from GAC colleagues. So, basically the first point is to note and welcome progress achieved for the Red Cross and Red Crescent, and to invite the Board to adopt such recommendations. So, any comments? Switzerland, please.

JORGE CANCIO: Thank you, Manal. Jorge Cancio, Switzerland, for the record. And thank you very much for taking this up in this list of issues too. It's more a point of information to the Board and also an invitation that they proceed with the adoption of the GNSO revised recommendations. Just also, as a point of information to fellow GAC members, the GNSO revised recommendations on this matter are the result of a reconvened PDP working group which, with the participation of the ICRC, the Red Cross, and also some GAC members amongst them, Switzerland, together with the GNSO has come to consensus solutions that GNSO has adopted finally those recommendations also with full consensus or even unanimity, as far as I recall, so I think this is a very good example that, when everyone acts in good will and tries to find common solutions, this is possible and this is a very welcome information and development in ICANN. So, I think it's worth noting to the Board. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Switzerland. Any other comments? If not, then the next one is, "What does the Board see as a next step in attempting to reconcile conflicting advice between the GNSO and GAC regarding the

curative rights?” And I think, chronologically, it makes sense that we ask this question after the first remark so it links. But I’ll pause here to see if there are any remarks on this?

Okay. If not, then moving on to the third point, “What is the process and timing for delivery of a Unified Access Model?” Any reflections on this question? Should we ask it; should we not? Should we keep it; should we modify it? Okay. I will take silence as agreement. US, please, go ahead.

UNITED STATES:

Thank you. I think this looks good largely, except for the word ‘delivery’. I wonder if it would be better to have, “for the development,” as opposed to ‘delivery’. Thank you.

MANAL ISMAIL, GAC CHAIR:

Thank you very much, US, noted. Any other comments? Okay. If not, then moving on. “Are there currently any similar legal proceedings to the ICANN versus EPAG case in Germany? Will the outcomes of the EPAG case be confined to Germany or have broader implications?” And this was a question posed by Indonesia, if I recall correctly, this morning. And Germany, please, go ahead.

GERMANY:

Thank you very much. [Inaudible], Germany, Federal Ministry of the Interior, Building and Community. The question or the content of the question could be misunderstood because it gives the impression that

the decision of the Higher Regional Court of Cologne would be binding for any court in Germany or any court in Europe, but that's not the case. It was a very specific procedure, it was a preliminary injunction procedure which is very complicated due to the German civil procedure code, and you have to be familiar with this legal provisions, so it was not based on European Union law or the GDPR, it was based on formal reasons, it wasn't a decision on the substance. And the main proceedings could still be initiated because in this preliminary injunction proceedings you have to prove that there's an urgent need for a preliminary injunction, and that's very difficult to prove, but doesn't prevent ICANN to start the main proceedings. So, the question could be misunderstood. Thank you.

MANAL ISMAIL, GAC CHAIR: So, any suggestions for modification? And it's a pity we don't have Indonesia in the room since they raised this question. US, please.

UNITED STATES: Since Indonesia is not in the room, perhaps it would be best to maintain the question but maybe rephrase it to asking the Board to give an update on the situation and what are the expected implications?

MANAL ISMAIL, GAC CHAIR: Okay, makes sense. Then, we will do this. I see nodding. So, the following question is what Belgium raised this morning, "Will the Registration Data Access Protocol, RDAP, provide for a data exchange

or data storage?” Which is a very good question but not sure, is it a question to the Board? No? Okay. Would be good to know where is the appropriate venue to pose this question but – So, with the agreement of Belgium we will not pose this question to the Board. US, please, go ahead.

UNITED STATES: Might I propose an alternative question or should I wait till the end?

MANAL ISMAIL, GAC CHAIR: Alternative to this one? Yes, please, go ahead.

UNITED STATES: I'm very nervous to ask this question but perhaps we could ask the Board, “What would happen in the unfortunate circumstance that the EPDP is not able to come to agreement?” Because it's not clear what will happen after May 25th if there's no agreement. If there's a Plan B.

MANAL ISMAIL, GAC CHAIR: Thank you, US. Tom, were you able to capture the question? Thank you, Tom. Kavouss, please, Iran, go ahead.

KAVOUSS ARASTEH: Yes. Agreement on what? Please, could you clarify? Is known, agreement on what? Thank you.

MANAL ISMAIL, GAC CHAIR: Agreement on the final permanent model that would replace the temporary specification, which is temporary by definition and should end by one year maximum. Is this okay, Kavouss?

KAVOUSS ARASTEH: Yes. Question is okay. But we have raised this question the previous public forum that -- And they told us that is one year is the maximum lifetime of the temporary specification. If it is not agreed, it's fall out. That's all.

MANAL ISMAIL, GAC CHAIR: Exactly, and that's the question. "If it is out and there is no agreed replacement, then what?" Okay? So, this is exactly the question. You are right.

So, moving on. "What is the Board's initial reaction to this week's High Level Governmental Meeting?" Again, this was a placeholder for the High Level Governmental Meeting. Since it's taking place this week we thought it may be an informational point but then we received the suggestion to put it in a form of a question. But -- Any comments on this? Okay.

So, do we have any further questions on the screen, anything to add? Yes, Colombia, please.

COLOMBIA: Thank you very much. Colombia speaking. I will speak in Spanish. Just to show the interest of the Government of Colombia with respect to the .Amazon issue, it has been reviewed within the framework of the

Amazonian treaty, the ACTO. So, the eight countries that are in the Amazonian basin have reached a single position. And we would like to say something in this meeting regarding several actions that -- from our government and the eight governments that are part of the treaty have agreed. So this would be my request, to say something in the meeting.

MANAL ISMAIL, GAC CHAIR: Thank you, Colombia, so is it going to be more of an informational point rather than a question to the Board?

COLOMBIA: Colombia speaking. Yes, that's right.

MANAL ISMAIL, GAC CHAIR: Okay. So it's going to be a country update to the Board or on behalf of Amazonian countries?

COLOMBIA Colombia speaking. Colombia will speak and will give some items and elements that will reflect the current position of the Government of Colombia and we will also say that there's coincidence in that respect and a recent agreement among the eight countries of the Amazonia regarding the same topic.

MANAL ISMAIL, GAC CHAIR: Okay. Thank you. I think this is a straightforward informational point to the Board. Any comments? Kavouss, please. Iran, go ahead.

KAVOUS ARASTEH: Yes, Manal, I'm very sorry I was a little bit late. I don't understand the last bullet. First of all, if is not, what is? What would be? But why we raise this question? That's -- the Board will look at the output of the meeting, of the High Level, and then I don't know if they may or may -- Why we ask this question? We have not asked the same question in the previous High Level in Canada, in United Kingdom, in Marrakesh. And so, why we raise this question? I don't think that we need to raise this question. And then I don't understand the bullet last but one, "Will the Registration Data Access Protocol provide data exchange on data storage?" What does it mean?

MANAL ISMAIL, GAC CHAIR: Quickly, Kavouss, because we already have GNSO in the room. So, the one on RDAP, this is already deleted. We agreed to delete it. But, we're not able to edit three times on the screen now. But this is off the list, you are right. We deleted this one. The one on the High Level Governmental Meeting, as I said before, it was meant to be more of informational, if there's anything to be reported. But then China, you suggested to put this as a question. So would you like to speak to this? The one on High Level Governmental Meeting?

CHINA: Thank you, Manal. Sorry about that, I was working on something else. As you mentioned, the last question, “What is the initial reaction to this week's High Level Governmental Meeting?” I think there's a value, we can ask this general question to the Board to get some feedback or reaction from the Board on this week's HLG. So, that was my thinking. So, I stop here to see if you have any comments. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, China. We need to stop now because we need to start the GNSO session. So, if we can take this after the meeting or maybe online, or clarify it even one to one and then we can share it with the whole GAC. Thank you.

So, may I invite the GNSO council to the panel?

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