
MONTREAL – GAC Meeting with the GNSO
Sunday, November 3, 2019 - 15:15 to 16:45 EDT
ICANN66 | Montréal, Canada

MANAL ISMAIL, GAC CHAIR: Thank you for your patience. We are now starting our meeting with the GNSO council. We have one hour for the meeting and we have three equally interesting topics, we have the IGO protections and IGO access to curative rights, new EPDP subsequent procedures and Work Track 5 on geographic names. I think we will start with IGO, but before this, Keith, if you have introductory remarks or would like to introduce other colleagues from the GNSO as well.

KEITH DRAZEK: Thank you, Manal, I'm the chair of the GNSO and the GNSO council, and I would like to introduce my colleagues, Pam Little [indiscernible] and Rafik Dammak, the vice chair appointed by the non-contracted party house, and we will all very pleased to be with you here today, look forward to getting into our substantive discussion and engaging in any QA. Should I start talking about the IGO curative rights issue and protections? To recap, going back several ICANN meeting, discussions going on around the IGO protections and curative rights issue, including an exchange in Marrakech, at the last ICANN meeting 2010 the council, the GNSO

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council and GAC leadership and the IGO's rep activities on next steps relighted to the attention to recommendation 5 in particular but the IGO protections issue broadly. The agreement we had was to explore the possibility of establishing a work team dedicated to the topic of IGO protections as referred by the GNSO council and to try to ensure this work team could be incorporated into the ongoing PDP on rights protection mechanisms in all gTLDs and while the RPR PDP working group corruptly working on Phase 1 work and future work to do in Phase 2 focused on UDRP, we recognize there's an opportunity for under the umbrella of that group a dedicated work effort to focus on the question of IGO protections.

So coming out of our discussion in Marrakech, we agreed to draft a charter for the work of that work to keep it focused, time bound and try to give it maximum possibility of success in addressing this ongoing and challenging issue. And so we as the GNSO council over the course of the last couple of months had a dedicated small team working for draft the charter and we shared that draft, still a draft of the charter with you all with the GAC leadership and with the IGOs and sought feedback, and thank you very much for the work you have put in that, Manal and GAC leadership, we received feedback on Friday and that has been the topic of discussion during our GNSO working session today and

will continue to be the topic of discussion over the coming days and the coming weeks.

So I think where we are on the issue right now, we as the GNSO council are still very much interested in engaging in GAC colleagues and IGO representatives to be able to move this forward and ensure that IGOs and GAC members can participate in that group. Clearly that group doing work without the input, direct input and involvement of the IGOs in the process is not going to lead to success. So we really want to make sure we have the ability to set up that group and give it maximum chance to success. So the GNSO council will continue working on this, we will consider fully the input that we have received, proposed red line edits, and I think there are two sort of main topics or areas where we've had initial discussions that I would like to share with you but to note no decisions have been made at this point because still in the process of considering.

So the first topic was the specific language reintroduced from a previous draft on the topics of recommendations 1-4 and the explicit call out there, there is concern at the GNSO council level about that explicit reference but want to note under GNSO procedures any existing consensus policy or consensus policy recommendation can be replaced by subsequent work. So the understanding of the council according to our operating

procedures is that regardless of recommendations or consensus policies that have been approved by the board, that future policy work can always supersede or replace what happens come before. So I think it is the current view of the council that it's unnecessary to call out explicitly recommendations 1-4 because full acknowledgment those may be replaced by future consensus policy development which is ideally going to be -- essentially what we're talking about.

And the other component we discussed today was a representation of various groups within this proposed work team and so that's something that we're also discussing. One of the questions that came I think from the GAC feedback was wondering why there were certain numerical differences for certain stakeholder groups or constituencies within the GNSO structure proposed and probably worth reminding that the GNSO structure has a contracted party house that has two stakeholder groups, registries and registrars, and a noncontracted party how is that actually has more groups involved in that house and as such there are constituencies within stakeholder groups and the way that the GNSO council and the GNSO has been structured over many years is to provide those sub groups equal representation in the structure.

And so Rafik, if there is anything you would like to add, feel free to jump in. If not, no worries, but as the representative of the noncontracted party house, happy to take additional comments there. All of that to say that we very much welcome and appreciate the feedback you provided. We are considering the red lines and we will come back to you with a response in terms of our assessment of the proposed changes but as a -- I guess at the highest level, me at that level, we want to make sure this group set up for succeed and we recognize participation of the GNSO and members of the GAC is critical, so we will take that on and happy to answer any questions.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Keith, for the update and for your consideration of GAC input and for reaching out for comments and let me see if there are any comments or questions.

WIPO: Thank you, Chair and Keith for the background, and my name is Brian Beckham from the world intellectual property organization but I think it's worth remembering that I'm here not for myself nor my organization but for a number of IGOs that has been activity participating in the ICANN process regarding their identifiers in the DNS over the years. The truth is that most IGOs don't have the

sort of policy remit and resources to participate as robustly as we do in an ICANN meeting so we're here on behalf of a number of IGOs that have taken an active interest in this file and of course we all recall the history of the sort of tension between the fact that IGOs have certain privileges and preliminaries and immunities and affect their identifiers in a different manner than trademarks because commercial actors and IGOs not actively engaged in commerce.

So to what Keith has just shared with us, I want to say first of all on behalf of the IGOs participating in this process, we see that as a very positive signal, we had -- obviously I think it's no secret misgivings with prior processes but very happy to sort of sense the shared idea of hitting reset here and looking for a positive way to resolve this that works for everyone. So I don't think it's useful to really do any kind of wordsmithing or get into too much details here but just wanted to mention when the council undertakes its deliberations and of course happy to chat offline about these -- who specific concerns that came up, one was regarding the relationship between recommendations 1-4, and number 5 and there was specific language in the proposed charter which instructed the working group not to look at those in a certain way, so it's a good reminder, Keith, that I have shared that any work product from a working group that produces a consensus policy could as a matter of logic overtake a prior consensus policy, so that's very

well understood. And then there was a question about the relationship of the more focused Work Track and the full working group, so that make something we could explore offline. Thank you, Keith, thank you.

KEITH DRAZEK:

Thank you and thank you, Brian, for those comments, I think prior to Marrakech, following Marrakech, certainly Marrakech, that inter-sessional conversation I think will be critical and very helpful to make can sure we bring this to fruition and give the group the best chance to succeed on a focused topic and concise timeline. Not something I think that any of us want to go on for years like some of our other PDPs have and understanding in terms of bandwidth and capacity to contribute and participate, the longer groups go on the longer harder to engage productively, so we recognize that and that's one thing we have identified through our EPDP 3.0 reforms that we will talk about in a minute, we have identified that as something -- and this is actually a great opportunity for us as the GNSO council, the process managers for gTLD policy development is to try some new things. And I think we have seen can be -- I know we will talk a bit about Work Track 5 in the subsequent procedures but I think we are in a -- we have an opportunity to be a bit experimental, and there are sensitivities about that, but I think we as a council recognize we

need to do better in terms of managing our policies and processes, keeping them efficient and effective and I would like to think this will be an example of that when we get it going and concluded. So thank you, Brian.

MANAL ISMAIL, GAC CHAIR: Thank you, Brian and Keith. Switzerland please.

SWITZERLAND: Thank you, Manal. Jorge Cancio, Switzerland for the record. Just wanted to compliment what Brian said and going back to the questions from Keith, thank you for the presentation. The first question really goes to the notion that we agreed, so to say, and in the formal conversation in Marrakesh that we would engage in a holistic review of the whole issue and this includes of course recommendations 1-4. So as Brian said, we are not engaging in wordsmithing here but I would urge you to be creative, perhaps it's not the language we reintroduced from your first drafts, but something that really speaks to this maybe with more creative approach, language, wording but which really states that this is not only about recommendation 5, so that's the first point.

The second point on the composition of this Work Track, I think that yesterday we were finished, at least laying a very important

step in finishing the work of the so-called Work Track 5. There are many lessons we have learned from that effort, how the qualitative diverse composition of such an effort provides for much stronger legitimacy of its product. So it's not so much about numbers, it's about making sure that this Work Track really respects that point of view of qualitative representation of IGO and GAC interests in that new hopefully in that new Work Track. Thank you.

KEITH DRAZEK:

Thank you, Jorge, so I welcome both of your comments and on the second point, I would actually very much welcome an opportunity to discuss with GAC colleagues that participated in Work Track 5 to discuss about those lessons learned, because I think that will be instructive as we as the GNSO council continue to implement our PDP 3.0 work and in this particular case as relates to the IGO protections question, it could also be very instructive there, so I certainly welcome that discussion now and moving forward as we continue to refine and improve our operating procedures and our implementation. And on the first point, I take your point, noted, understand and that was certainly part of the conversation we had in Marrakech, and as you noted, the language you and the GAC reintroduced and sent back was language that had been in the first draft then removed during the

council conversations, the negotiations we have, not all views aligned all the time in the GNSO council, as you can imagine, so I think there is some sensitivity around that language but your point certainly noted in terms of the concept and theme. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Keith, and thank you, Jorge. And we have also both topics on our agenda, the PDP 3.0 and Work Track 5. So it's a timely discussion as well on lessons learned on Work Track 5. Any other comments or questions on the rights protection mechanism? Any final remarks? Shall we move on to PDP 3.0?

KEITH DRAZEK: Thank you, again, Manal, so the second point on the joint addenda here is a discussion of the respective community interests involving the ongoing proceedings of ICANN involving ICANN's multi-stakeholder model and so I think as we're all familiar during the Kobe meeting the concept of evolving the multi-stakeholder model, this effort was initiated, this is the effort that Brian [indiscernible] is leading on behalf of the board, engaging the community and do your GNSO council meeting earlier today had an engagement with Brian and an update from our internal small team talking about the PDP 3.0 improvements

and that there is actually some overlap, quite a bit of overlap in some cases. And I think one of the things that we have identified is that we really want to avoid duplicate work. We don't want to duplicate work done in PDP 3.0 by the GNSO council but recognize some of the work we have done in the last two years on this effort could be informative or help to inform the discussions of the broader community as we talk about general and overall improvements to the multi-stakeholder model.

So as part of that effort, we have transmitted the current work of the PDP 3.0 group to the broader community and have asked for feedback and questions on I think it's three different points that really could apply to the broader community, not limited only to the internal GNSO manage and the operations so that call for input has been sent and we certainly look forward to feedback or input from GAC colleagues on that effort. One of the other thanks we have discussed at the GNSO council level is the tremendous amount of workload that we have as a community, both inside the GNSO and across the broader ICANN space and the need to be able to prioritize our work and prioritization is one of the components of the multi-stakeholder model evolution discussion but it's also something that the GNSO council has identified as a real challenge, so just generally speaking I think that's sort of where we are in our conversations. Ongoing work in PDP 3.0. There is this parallel work involving the multi-stakeholder model

discussions and there is some overlap. And the question for us as a council is how do we prioritize the policy development work that we are engaging in, the questions about this effort, about the multi-stakeholder model evolution, our own improvements from PDP 3.0 and frankly everyone else, whether DNS and security [indiscernible] a lot that needs to be discussed and cognizant we will have to prioritize and pick what is most important to focus on early. I'm happy to turn to Rafik or Pam if there is anything you would like to add as they have been coordinating our PDP 3.0 efforts most directly.

RAFIK DAMMAK:

Okay. Thanks, Keith, for the briefing. We're asking for input in the three improvement we think they are impacting the community and looking forward to the comments here but asking the question what area of interest from the GAC side I think that will help us to understand how they see the PDP 3.0 process and issues.

KEITH DRAZEK:

Thank you very much, Rafik. So again, we're happy to take any questions or -- would love to hear from GAC colleagues about your views about the discussions and effort, and happy to answer any questions.

MANAL ISMAIL, GAC CHAIR: Thank you very much Keith, and Rafik, and first of all, thank you for reaching out to the community and GAC for comments on PDP 3.0. The mail was well received, we didn't have a chance discuss it yet within the GAC. But if there are any immediate comments of course we can take them now. On prioritization, you have the full support of the GAC. We have been talking about prioritization and I recall even Thomas Schneider, the previous GAC chair, he was leading efforts on this, and he also led the cross community discussions on this. And it has been a topic of discussion among SO/AC chairs whenever we meet so prioritization is essential.

I have quick question on the overlap between the PDP 3.0 and the multi-stakeholder model process. Whether you have identified explicit things of overlap, I mean, have you been able to identify overlap with specific issues in ICANN's evolving multi-stakeholder model or is it still yet undefined?

KEITH DRAZEK: Thank you, Manal, and the answer is I'm pleased to report, we have identified specific areas where in the items that have been lived in the multi-stakeholder evolution effort where we have mapped the PDP 3.0 topics to those and we do have a slide that we would be happy to share. We don't have it here available for display at the moment but following the session, happy to share that with you to help inform your discussions. Rafik, anything to

add to that? We actually discussed it in our previous meeting, working session, and I thought it was a very instructive and informative slide.

RAFIK DAMMAK:

Yeah, I think the slide is doing well the job to map out, show the mapping of the issues identified and multi-stakeholder model evolution and the work we are doing at the PDP 3.0 but just from your information, the council submitted comment on whether the [indiscernible] participation and went into details about the area of overlap between the multi-stakeholder model evolution and the PDP 3.0 improvement.

MANAL ISMAIL, GAC CHAIR:

Thank you very much, Rafik. Any comments or questions from GAC colleagues? Okay. Then we will be discussing, and we will get back to you with our comments on the identified issues on PDP 3.0. Yes, please, Pam.

PAM LITTLE:

I just wanted to remind the GAC representatives, we ask you to provide feedback if possible, by the 22nd of November. So hopefully you will have some discussion here and then be able to provide us the valuable input, especially I think on the topic of

working group composition. This was one of the feedback you had on the IGO curative rights issue, and I think maybe this will be kind of a broader, better avenue to tackle or address that concern or feedback you have. Thank you.

KEITH DRAZEK:

Thank you, Manal, Pam, and just to provide context, the GNSO council will have a strategic planning session in I think the third week of January or towards the end of January 2020, and that's one of the reasons we're seeking feedback and why it may feel it's a bit short timeline but want to be able to take on and absorb the feedback received from the broader community on key points and make sure as we go into you're strategic planning session have the benefit of that and continue with the implementation work and then properly engage in the broader multi-stakeholder evolution conversation. So I think that's just a little bit of context.

MANAL ISMAIL, GAC CHAIR: Thank you, Keith, I was just going to comment on the tight timeline. Because afraid it's difficult to add anything to the agenda here and after ICANN meetings, colleagues tend to take a little bit of a break, but yeah, anyway, we will see how it goes. I have Switzerland.

SWITZERLAND:

Thank you, Manal. With danger of taking the floor too much, but I couldn't pass on this because it's an effort which I think is very important, and you already identified it, it's connected with the discussion on evolving the multi-stakeholder model and also connected with the discussion on how we define global public interest and connected with so many things, so I cannot stay silent at this moment. And just to make reference to the fact that we have already made inputs on this question precisely in the public comment period on the multi-stakeholder model, we made some references to the recommendations included in the PDP 3.0, and these address things like composition and how composition affects legitimacy and consensus building and knowing that the people talking really are representing wider shares of the community.

So I very much look forward that even though we normally take some [indiscernible] of ICANN off the GAC meeting, that we are able to eliminate [indiscernible] on prior thinking so that you have it ready before touting your strategic planning meeting in January. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Jorge, and you were the first to bring this to the attention of the GAC, I remember, even before we knew about it. So thank you.

KEITH DRAZEK: Thank you, Manal, and Jorge, for flagging that the GAC has already provided comments in this area, this neighborhood, and we will make sure we take that on as we consider any input we receive from the broader community, so thank you for flagging that.

MANAL ISMAIL, GAC CHAIR: Thank you, so anything else on PDP 3.0 before we move on? Okay. Then new gTLD subsequent procedures and Work Track 5?

KEITH DRAZEK: I would be happy if somebody else would like to take the lead on this one, I was not involved in Work Track 5 personally, others here were, and any other discussion on subsequent procedures, we are happy to engage, but if somebody from GAC colleagues would like to take this one on, we would be happy.

MANAL ISMAIL, GAC CHAIR: Thank you, Keith. Olga, would you like?

OLGA CAVALLI, GAC VICE-CHAIR: Thank you, this morning we shared with the GAC colleagues the outcomes of the Work Track 5 experience. I personally think it was very interesting one, important learning experience for

myself and as GNSO policy development process I think it has been an innovation that resulted in a very interesting experience. So the document has been delivered to the co-chairs to [indiscernible] and Jeff, so it will be added into the policy development process. As for the GAC, we have mixed feelings, with different opinions. As you know, the process was difficult, it was long. There were totally different views, opposite sides of the same issue, but we could achieve a compromise in between the two.

So we are all somehow unsatisfied, not everyone is happy. But I think the exercise was worth the effort. I think Jorge mentioned this morning this morning, and I experienced that personally. Whether some of us had our own positions and ideas, we could understand better the other positions and the other reasons for. So that at least, for me, was extremely helpful. So I think as new experience, it was positive, and the outcomes are there for the GNSO to use in the general PDP.

I don't know if you want me to explain some more parts, but I think we already had that explained this morning. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Olga, and yeah, as Olga said, in terms of substance, there were mixed feelings and in terms of process, I think there were some good lessons learned.

KEITH DRAZEK: Thank you very much Manal and Olga for the feedback, that's very helpful feedback as we the GNSO council consider next steps in the other areas. At the risk of using an over confused phrase, consensus and compromise means ideally that everyone is equally unhappy, right, so and maybe that's not a terribly optimistic or positive thing to say but an acknowledgment, as ICANN community, whatever group we are part of, there will be differing views, always will be and ideally through our bottom up consensus policy development work, that we reach something that everybody understands all the opinions have been heard, and that the group ideally works towards something that can be represented as consensus and it sounds like this group was successful in doing that. And I know that the subsequent procedures PDP working group as a whole will take that on and incorporate it into the broader policy recommendations so thank you very much for that feedback.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Keith. So any comments? On Work Track 5? Any other business? So if not, then I thank you very much, Keith. Thank you, Pam, Rafik, and everyone. We are done, again, ahead of time so for GAC colleagues, please be back in the room at 5:00, we are having a session on universal acceptance. So thank you, everyone.

KEITH DRAZEK: Thank you all very much. Thank you, Manal.

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