
COPENHAGEN – GAC: CCWG Accountability Work Stream 2 – GAC Discussion
Saturday, March 11, 2017 – 15:15 to 16:00 CET
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CHAIR SCHNEIDER: Thank you. All, please take your seats. We are restarting.

For your information, all of us just sent around a number of questions with a view to the panel that Manal has mentioned that will take place on Monday on 15:15 to 16:45 in Hall C1.4. This is the GNSO room. And there are questions that could form the core of the discussion of that panel. It's seven questions, you've just received them, that would be useful to get some feedback on so that Manal has a little bit of background or views that she can refer to or draw on.

So, Manal, thank you.

Please.

MANAL ISMAIL: Thank you, Thomas. I was just going to make a suggestion, because I know the time is tight and colleagues have just seen the -- the questions right now.

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So maybe if this is a better way to do it, maybe I can just mention the GAC position as what's being communicated in the letter, and then separate this from my personal interaction in the panel in response to the questions.

So I can make this participation from a -- an individual perspective, but when it comes to a GAC response, I can still stick to what's been communicated in the letter, if this is a better way to do it.

Thank you.

CHAIR SCHNEIDER:

Thank you. I think that proposal makes sense.

Questions or comments by the GAC?

There's a question. Could we have the questions as they are contained in that letter just sent by Olof on the screen so that people may have the -- have an opportunity to look at it, at them?

Thank you very much. That was very quick. So these are the seven questions.

If you could scroll it a little bit more up so the last one is also visible. It's seven questions in total. It's one line. Yeah, now we are here.

So the content of the question is mainly the scope of the -- of the upcoming review as -- as the co-chairs of the Cross-Community Working Group have suggested, to reduce that scope given that they are already working on some of the aspects with regard to accountability and transparency. And the question is should this be in the hands of the review team itself or should there be some guidance from the SO/ACs.

And then there's also some reference to the process of the selection of the review team. Maybe it needs to be added here, for those who are not -- don't have this in mind, that until last September, these review teams were composed based on -- on nominations and self-nominations by the CEO of ICANN together with the chairman of the GAC. And that was how it used to be. And since October last year, there's a new selection mechanism in place that has been used now for the first time for the SSR2 review where it's no more just the CEO and the chairman of the GAC -- CEO of ICANN and the chairman of the GAC but it's actually all the chairs, SO and AC chairs, that together decide about the composition. All the SOs can basically propose three members of -- of -- that they think are somehow affiliated to them or endorsed by them, and propose three names. That makes it 21 in total, if you count seven times three for seven SO/ACs times three members. Which makes the new review team slightly bigger than the previous one that used to be

around 15 to 17, maybe maximum 18. And there have been some discussions with the first SSR2 review team about how this works and some challenges with the selection. And question 5, in particular, refers to this. And then the last -- the last question 6 is whether or not it makes sense to have members of the Cross-Community Working Group on accountability to be part of ATRT3? And the status in case that would be -- would be something people would like to see. And the seventh is just is there any other issue.

So this is the scope. It's basically a learning exercise or trying-to-learn exercise from the recent experience.

And I see that Olof has his finger in the air so I would like to give him the floor to add a few remarks.

Thank you.

OLOF NORDLING:

Thank you very much, Chair. And just a few precisions about the application process, because it is sort of a public announcement that is the opening for applications to such review teams, and with a deadline of a month or a little more. And when applying, because it's still called for for the individuals who are interested to file themselves and file an application, they indicate which affiliation they have, or, conversely, which SO/AC they're seeking

endorsement from. And that's sort of the pool of applications that the SO/AC, like the GAC, then has to consider and decide, all right, we can actually endorse more than three or less. There is no obligation. But we can be guaranteed of having the three -- three org endorsements at -- on the actual review team.

If it's more, well, it depends on the final selection around between the SO/AC chairs how the final count would be in that case.

Just a little addition.

Thank you.

CHAIR SCHNEIDER:

Thank you. And, I mean, this is all very technical and procedural. I think at least from my point of view, what the goal of this -- of any selection process should be is that you have some diversity of, let's say, geographic origin as well as stakeholder experience that feeds into. And this is a little bit of a challenge if every SO/AC in his or her silo, its silo, develops the candidates and then you put this together. It's not necessarily a given that you have a good balance and diversity overall. So this is one of the challenges, of course. Whereas before it was maybe less, let's say, distributed or participatory in terms of the selection mechanism, but you had all the names at once and the GAC

chair and the CEO was looking at this, at the whole set. And that had the advantage that you have a better feel of -- of how to get the balances right.

So I think we leave it at this on this issue for the time being. And I assume that Manal will -- first of all, I would like to invite you to participate, although knowing that this session overlaps with a few other things that you already see on your one-page agenda, it's the cross-community session with the data protection commissioners, and there's also an open session of the underserved region working group. So this is one of the challenges of this so-called GAC-session-free Monday, that there are more and more sessions that are squeezed into that day with the overlap.

But we -- I think Manal will report to us. We'll find a moment for her, in particular, to report to us later next week, and then we'll somehow wrap up -- find a moment it wrap up and then see what the GAC -- if and what the GAC would respond as a whole, if that's considered useful.

Iran.

IRAN:

Thank you, Thomas. Notwithstanding any criteria that GAC opt for, there is an additional criteria, and that is some sort of

commitment to contribute. If it is not written commitment, at least some moral commitment. Because we have three members, they are competing each other based on those criteria, but never they open their mouth during the whole period. And some of them only a few lines in the chat. That's all.

So we should have a commitment, moral commitment. Otherwise, we will be taken up by those very active participants outside the GAC. They have all resources whatsoever you can think, and they come, and then when any GAC member is alone, it will be said you are the minority and you have to join the consensus, and it will be a mouton noir reflecting the views of colleagues, but there's no other colleagues, in fact. So that's another criteria to be added, some sort of commitment.

Thank you.

CHAIR SCHNEIDER:

Thank you, Kavouss. I think the message is year and understood, and it's very relevant. You just need to take into account that it is not necessarily GAC members that will be proposed or invited to participate in the review team. It can be outside people, people from other parts of governments but not necessarily GAC members, or other expert that the GAC endorses as -- as participating on their behalf or with an affiliation. So it doesn't necessarily mean that we're talking about GAC

members. But of course it should be -- it should be clear but it's not always clear in reality that this is not just free traveling but it's also work that is involved in exercises like this.

Thank you, Kavouss.

If there are no more questions, let's quickly go back and spend the rest of the time that we have until 4:00 on the -- on the Work Stream 2 accountability that we've already heard some good, valuable reports and input. And maybe what I would suggest is that we use the time looking at, in particular, those subgroups of Work Stream 2 where we have a report that is up for public comment right now or that is about to come. And some of this information is on -- on the sheets that ACIG has provided us with some time ago where you see all the requests for public comment and community input listed. Not only those related to Work Stream 2 of the accountability working group. There's others on that sheet as well. But you also find those that -- that are part of the Work Stream 2. Like, for instance, the -- the draft recommendations to improve ICANN's transparency. That was sent to the GAC on the 22nd of February with a deadline of 10 April. Then we have this famous questionnaire on jurisdiction where we are asked to provide some answers by the deadline of 17 of April. The questionnaire of diversity, I'm not sure whether this is -- this is ready yet. I think that this will come very soon.

So we don't yet have a deadline. And then the same with the Framework of Interpretation for human rights across ICANN.

So I think one of the key -- the key question that we should clarify or agree upon is on which ones of these we should try and come up with a GAC consensus input or whether it's sufficient to -- to just invite individual GAC members to -- to give -- make comments on their own behalf.

This is not mutually exclusive. We can also invite everybody to give individual comments plus try to come up with a consensus shared position. We've done this before at the earlier stages in the CCWG as well. But the question is, in particular, where would you like to see us taking the effort to come up with a consensus input.

I see Iran and Switzerland. Thank you.

IRAN:

Thank you, Thomas. Perhaps there is some misunderstanding. The questionnaire released by jurisdiction or CCWG does not ask for the GAC as a GAC entity to comment. It is each GAC member. Not only GAC member but GAC member plus any other constituency stakeholders.

So GAC as a chartering organization has not been asked to come up with the answer with consensus to those questions. GAC

members individually, plus the constituencies, the stakeholders in that GAC member could reply to the questions. Does not require consensus in the GAC. So it should be quite clear.

Three people, they ask me, and I answer them that you could individually as your government, individually as your government plus any other registry, registrar, ISP, so on, so forth.

So let us make it quite clear that the questionnaire is not addressed to the AC of GAC for reply.

Thank you.

CHAIR SCHNEIDER:

Thank you, Kavouss. This is -- This is clear with regard to the questionnaire on jurisdiction. There it probably does not make much sense to try and aggregate something on GAC consensus level but, rather, report experience from individual governments.

It may be different with the -- with an input on the other questionnaire -- or not the questionnaire but on the other draft recommendations to improve ICANN's transparency. That's another input that we're invited to give. And this is my question to you, whether you think that it would make sense to try and work on a consensus GAC input on that aspect. Of course

everybody is free to give individual input on that one, too. But the draft recommendations to improve ICANN's transparency that are out or public comment since the 22nd of February with the deadline of 10 March; i.e., one month ahead from now, is something where the GAC could decide to try to come up with something consensual. The thing is that if we come up with a position that is agreed by the whole GAC, it is, of course, stronger than if we have individual members giving their views. This is the reason behind me asking you that question.

Yes, Iran.

IRAN:

I'm sorry, Thomas. Still I'm not clear of the way that it's explained. Please check with the CCWG co-chairs whether those recommendations requires consensus. Because it is very risky that 170 members of the GAC if 100 participate and 99 say yes and one says no, there will be no answer? I don't now. I don't understand that. I don't think that the objective of that would be consensus as such.

So please check. I may be wrong, you may be right, but please check with them. What is the scope of answers and what is the nature of answer and (indiscernible) of answer? I don't think it is consensus advice to those recommendations. Thank you.

CHAIR SCHNEIDER: Thank you. No, I didn't say this requires a consensus. This is a different thing.

The thing is we can think about whether we want to give a consensus advice. You also need to think ahead of this, because in the end, like with Work Stream 1, there will be a report, all the subworking -- substreams will be put together in one report that will contain recommendations. And at the latest, at that stage we should try and have a consensus view on whether or not we, as a chartering organization, will adopt or support, and so on, blah, blah, the report.

So at this stage we are not forced to have any consensus on anything. It's just up to us to decide whether we would like to have -- send a consensus message into that public comment period, but this is a voluntary thing. Thank you. Switzerland. Sorry for letting you wait. Thank you.

SWITZERLAND: Hello. Good afternoon, and thank you for giving me the floor.

I guess it depends on what the purpose of the different questionnaires or draft recommendations is that is under public comment, will be under public comment. As said before by Iran and the jurisdiction, questionnaire is more about the fact-

finding exercise. So it's more linked to the particular experience of -- be it governments or other stakeholders with ICANN jurisdiction. So I guess there, a common input from the GAC wouldn't make too much sense.

As to the human rights Framework of Interpretation, as said this morning, it will go out for public comment in the near future, hopefully. And there I would plead for -- for GAC common reaction to it, because it will be almost the final product of this subgroup. So it would be very good to have a common ground reaction to it from the -- from the GAC as a whole without prejudice to -- to individual inputs from -- from GAC members, of course. So GAC observers.

SO/AC accountability. I think that there, even more, GAC reaction as a -- as a common input would be needed because really what we are being asked with -- with that is our position on -- on the accountability of the different parts of the community and our advisory committee itself. So I think there we are being addressed as -- as the GAC, as the Governmental Advisory Committee as a whole.

As to transparency, probably there are aspects that are more linked to the GAC as a whole or maybe of common interest as noted in the brief made by our secretariat. And this relates especially to the new provisions on transparency in contacts

with governments, although there may be also other aspects of the report which could be of common interest for -- for the whole GAC.

As to diversity, again the questionnaire, which has been finalized, addresses directly the SOs and ACs as constituents -- constituent parts of the ICANN community. So there, again, I think that an answer from -- from the GAC without prejudice to individual country answers would be useful.

And also on the -- on the recommendations on the -- on the paper, on staff accountability, it could make sense that we also mention our experience with one part of our support, which is the experience of our independent secretariat, which in the end addresses one of the underlying, perhaps, concerns within the community about this staff accountability, which is that although the staff is organized within ICANN organization or ICANN corporation, some parts of that staff are intended to serve the different SOs and ACs and not so much serve the interests of the ICANN corporation or ICANN organization itself.

So I think our experience with our independent secretariat could be something that could be of interest to the wider community.

Thank you.

CHAIR SCHNEIDER: Thank you, Switzerland. So you have identified a number of aspects of the Work Stream 2, running -- currently running or soon opening up public comment periods where you would suggest that we would try and -- and organize, try and come up with a shared vision, shared views among the whole GAC.

Others, please, please do comment on how you see this, because the thing is that if we decide to -- that we would want to -- to come to a shared GAC position, given the timelines that are involved, we won't have another physical meeting to discuss this most probably with all of these -- of these currently ongoing or upcoming public comment periods, but we would have to do this somehow online or maybe with the use of a teleconference at some stage. So that would need some preparation, let's put it that way, in order to be able to do that.

So, please, all the others, give us your views on where you would also see that it would make sense to try to come up with a GAC consolidated position.

Yes, Brazil. Thank you.

BRAZIL: Thank you, Thomas. And having heard both Kavouss and Jorge, I think it is -- it would be worthwhile to try to have a common position around those issues. I personally am not familiar with

the text, and I think most of us are not because there are so many streams. But I understand that accountability, transparency, and diversity are issues around which -- that are already mature in the groups and around which we can have common position.

So I think it is worthwhile. I think we would need for that some material that would analyze the latest text and maybe try to organize for us in -- in the deadline, in the timeline we have for this.

So I'm -- I leave it in your hands, but I think it is worthwhile. Again, as you have said, thinking ahead, we may come at some point that we'll be asked as a group. If we can anticipate it, I think around the three issues at least, which are, I think, in an advanced stage of preparation, I think it would be worthwhile.

Thank you.

CHAIR SCHNEIDER: Thank you, Brazil.

Additional views?

Denmark.

DENMARK:

Thank you. For this meeting, at least in the (indiscernible) briefing papers, there's three subjects which we can comment on. And they're -- as far as from a Danish point of view, we share the view on jurisdiction. Those questions, they are detailed fact-finding mission, and there will be no added value other than hard work for GAC to agree on that. But facts is facts, so if people have it, I will encourage people to put and answer it if they have some experience.

As to the other paper, which is the good practice, I have difficulties to see that we need to go into that. That is a short document, and at least from our point, we have nothing to add.

The third thing is the transparency. From the Danish point of view, we are satisfied with the document. Of course, one could say that there is some special towards government, but as a transparent government, we are not challenging the right that if -- if other communities would like to see how GAC interact with us, they are welcome to do that. I have during the process raised the questions whether we might be interested in also having transparency when GAC meet lobby organization. That could be a question. But it turned out that the Work Stream 1 was specific in this part that it was only going within the scope of whether there should be more transparency towards government. So we have no suggestion that we should enter into that.

Concerning the future, I think, which was pointed out by Switzerland, probably human rights, definitely SO/AC accountability. And when the question of diversity, that is something we should look into.

And as far as I can see, the hot question of jurisdiction, the really recommendation will be, as far as I can see, in not the near future. The far future.

Thank you.

CHAIR SCHNEIDER:

In the relatively near or relatively far future, maybe, because it's supposed to come no later than before the process ends which is currently mid-'18 from what I understand.

So thank you for this. So we -- I sense that there is a wish, at least, for some of these subgroups to organize, consolidated joint -- if we agree on something, a joint statement.

In the case of the transparency, if everybody shares Denmark's views, then we can of course communicate that view as a consolidated GAC view, too. We can also say we can agree to something by consensus. We not only have to have problem with something by consensus. So that's not excluded, per se, as an option, of course.

I don't see -- Canada, yeah. Sorry.

CANADA:

Thank you very much, Mr. Chairman. I would just also propose, I think I mentioned this morning, that we want to start thinking in parallel as one of the CCWG chartering organizations about a GAC position on extending the CCWG's timeline, and also about the format being proposed for the final outputs. Just to have the staggered consultation process with the final consultation period at the end to address inconsistencies.

Thank you.

CHAIR SCHNEIDER:

Thank you.

Iran.

IRAN:

Thank you, Thomas. My understanding of the process is as follows. If GAC is approached as a chartering organization to comment on any process, then we need to have position of GAC in toto.

If a question is a public comments, put for public comments, any GAC government, any part in that government are free to submit their comments. Does not need to that.

The only way we need to have coordinated reply, if we are referred to as chartering organization. That's all. Otherwise, if we do that, your views will be totally dominated by the views of those private sectors that there are hundreds and hundreds, and they mobilize and send one after the other.

So please be careful. So don't deprive yourself from answering. The only way you need coordinated, if you are referred to as a chartering organization. Otherwise, you are free, as the GAC in toto, each GAC government, each part stakeholder in that government -- registries, registrars, ISPs, and so on, so forth.

So let us make it clear. If you have any doubt, please ask the chair of the CCWG or the secretariat of that group. So we should be quite clear not to mislead the colleagues.

Thank you.

CHAIR SCHNEIDER:

Thank you, Iran. Nobody is contesting what you say that we are not obliged to have a consensus view or consolidated view, or whatever you call it, before the end, but I'm not sure whether it makes the GAC stronger if we have 15 or 30 slightly differing or more or less differing individual views or if we come -- decide voluntarily that we want to communicate a consolidated view from the whole GAC, which is only one paper in contrary to 30

papers but maybe a paper that is speaking on behalf of 170 governments, countries, and some observers. So -- But I think the sense of the room is clear and understood.

I have the African Union yon commission and the U.K. and then we need to wrap up.

AFRICAN UNION COMMISSION: Thank you, chair. I agree with you about the importance of having a consolidated GAC position.

Now speaking on behalf of the Underserved Regions Working Group. We have been working with the CWG Work Stream 2 subcommittee on diversity, and specifically on the survey that they are developing. And because the underserved regions work group is also developing its own survey, we're looking at ways that we can collaborate to ensure that we are looking at diversity from diverse perspectives.

And so we're going to be contributing to that, and I think we'd like to bring this back to the GAC once we're sure about the direction this is taking, and perhaps have a consolidated view on that as well.

Thank you.

CHAIR SCHNEIDER: Thank you. This is very useful information.

U.K.

UNITED KINGDOM: Yes, thank you, Chair.

My thoughts on this are generally that where there's a call for inputs. It is, as Iran has been saying, important for individual GAC members to consider if they wish to contribute views, especially on issues of good governance. Transparency, accountability, diversity, and so on. These are issues where governments have a lot of experience, and I'm sure that many of us would be able to develop some contribution to the work of the subgroups based on the experience of good governance practice that governments deploy within their administrations, within their communities.

So -- And my suggestion is that we all look to that opportunity to contribute to the work of the subgroups by responding to the call for inputs, and that the individual governments that do that share their responses with the GAC. And that may, in turn, actually help foster a sense of opportunity more widely across the -- across the committee.

So I just throw that in as a suggestion to help mobilize the membership of this committee to review the opportunities for

inputs, and as colleagues have said, ensure that governments are there putting their case, putting in their contribution.

On jurisdiction, well, we'll have to look at that. We have until 17th of April, call for sort of experience with issues ever litigation and so on. I think there's probably an opportunity for us to have a go and see how we can contribute to the -- the build of knowledge, if you like, of the various questions relating to jurisdiction arising from how ICANN has performed, the stakeholders, the problems that may have arisen in disputes, in dispute resolution, and so on. And then I think it's a matter of again contributing individually, but sharing that contribution with the committee more widely so that there's a sort of greater awareness of contributions that are going in from governments.

Thank you.

CHAIR SCHNEIDER:

Thank you, U.K.

So I think it's -- it's clear that individual contributions are welcome by everybody and that we have at least some requests for trying to coordinate some positions on a number of these.

For instance, the SO/AC accountability is something that is probably required, actually, to respond as a GAC because the

individual members are not an SO/AC. So it really depends on each of the -- of the subgroups and the nature of that work.

I'll give the floor to France, and then I have to wrap up. Thank you.

FRANCE:

Thank you, Thomas.

I would like to draw the GAC's attention to the work done by the subgroup working on diversity. As you know, there are two papers or two documents, a questionnaire that will be sent soon as well as a report putting forward some recommendations.

I think that GAC is a symbol of diversity within ICANN, and it is extremely important for governments to engage actively, to put forward their opinions and also to make sure that GAC can present a consolidated input in the subgroup.

I don't know to what extent governments are willing to participate individually or as part of GAC as a community, as a whole. I think that this goes beyond the geographical and cultural origins. So we are dealing with very specific issues regarding translation, participation. So I urge GAC members to engage actively, because they are a symbol of this diversity.

CHAIR SCHNEIDER: -- not only, but especially in the diversity subgroup.

So I think, as I said, we -- everybody's encouraged to give individual contributions on whatever public comment periods that are and will be available. And we'll see, whenever something is there, where we offer you proposals or we may receive proposals, draft proposals for a consolidated view of the GAC on some of the subgroups. We'll accept draft recommendations once they're out.

I think I can stop here or have to stop here, looking at the timeline, and move on to the next -- the next agenda item, which is a very important one, one of very high priority and high interest.

Hence, we have devoted a number of sessions to this -- to different aspects that are part of this exercise of developing a framework for the subsequent rounds of releases of new gTLDs.

And we have, of course, Tom from the secretariat and ACIG that is following this very closely. We have also some other participants, members of the GAC, like Jorge from Switzerland that has helped us in following this. And we've had the discussion, if you remember, whether or not to create a task force that would try and look into these things a little bit more systematically. That was considered to be a little bit too heavy in terms of an organization. And then there was a proposal to

have -- maybe give vice chairs some special responsibility in acting as a topic lead. We have discussed this in the leadership team. And we're looking into finding people and resources to help with this task. So that is under discussion.

I'll stop here with a very general introductory remark and hand over to Tom to present you some additional information. And you'll find the briefing, which is on agenda item 6a and b and then again number 22, slot 22 in our agenda.

So thank you, Tom, for introducing some more details to us.

TOM DALE:

Thank you, Thomas.

What we have tried to do is put materials and information before the GAC so that in the leadup to this meeting, you have the most up-to-date information, as we understand it, about the evolving work on developing policies for new gTLDs. And, primarily, that's been part of a GNSO policy development process.

Now, the intention, as worked out with some GAC members and some vice chairs, is to -- for the session this afternoon is to have an introduction covering how the GAC might wish to organize any further input to the PDP process. And there are some specific questions being put by that PDP working group shortly to the community, including GAC.

Quite a lot of questions, in fact.

And, after some initial discussion, the co-chairs of that group that have spoken to the GAC before -- that's Jeff Neuman and Avri Doria -- will be here to speak to you about the process for community consultation, the general work of the group, and what expectations they may have or GAC input going forward to meet their time frame.

After that, the intention is to finish with a presentation led by the U.K. and the Council of Europe concerning the paper on community applications, which is an element of the new gTLD policy process. And, if there's any further time to raise initially some of the topics that the GAC is already doing some work on such as support for applicants for new gTLDs in developing countries, for example, or consumer safeguards. So that's a rough plan as discussed with some members.

To introduce the first part as regards the -- how the GAC might wish to organize, if at all, its engagement with further work of the PDP process on new gTLDs, in the emails that I know that you look forward to receiving from me on an almost daily basis leading up to these meetings -- I'm sorry, but that's just the only means we have at the moment of getting this information out to you -- we have previously raised a number of options for the GAC engaging with the PDP work going forward. One is to use the

existing GAC work rather than new structures where there is an obvious fit.

And a lot of groups within the GAC, not outside, but within the GAC are actually working on some of these policy areas, as I'm sure you know.

The second issue is to possibly try to have a process of seeking GAC views on how to prioritize the topics, which of those policy areas the GAC may wish to give a greater emphasis to, and how to track them against some of the questions that are going to be coming from the PDP and from the co-chairs who are seating themselves at the table as I speak.

To confirm -- thirdly, to try to confirm who the topic leads are. We think we know. We think you know. But in some areas there, perhaps, needs to be some discussion about the topic leads for some of these issues within the existing GAC membership. And, finally, to try to organize some assistance and support from the vice chairs of the GAC and to -- and what support you want the secretariat to provide in this area. So that's a quick overview.

I might ask Jorge if he wishes to add anything because we worked closely with him as one of the previous session leads. Are those the sorts of issues that should be before the GAC for organizing its work? Perhaps he may like to comment on that or not. Otherwise, I'll leave it at that for now. Thank you.

[END OF TRANSCRIPTION]