
PANAMA – Joint Meeting: GAC and GNSO
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MANAL ISMAIL, GAC CHAIR: So welcome everyone to the GAC GNSO meeting. This meeting is scheduled for one hour. And I would like to remind everyone to state their name and affiliation whenever they request the floor. So first I would like to welcome GNSO colleagues here Heather, Donna, Rafik and Julf and thank you for making the time every meeting to have this bilateral change. I understand we have slides for the session.

So we have a short agenda but of course, condense discussion. So first we would like to discuss way forward regarding GDPR, expedited PDP. I think we also have the new gTLD subsequent procedures it's another important topic to the GAC. I know everyone is very busy with GDPR but this is also another important topic.

And the GAC was also very interested when the PDP 3.0 paper was brought to our attention. I think this is also very welcome initiative from the GNSO which we would maybe like to learn more and understand you are plans regarding this and how we

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can weigh in our views as well. So with this I will hand over to you. Can we start with the first agenda item? Thank you.

HEATHER FORREST: Thank you very much on behalf of the GNSO Council for having us here today. Manal posed this question to start with. So I would suspect I acknowledge the point that you made that we don't want to devote all of our time to GDPR. I am conscious that may well be largest portion of our discussion so that we don't miss the other two items. Would it make sense to start with those two and then spend remaining time on GDPR? You quite rightfully noted risk that we might dominate our time on one agenda item. If we wanted to get the first two out of the way. We are happy to do.

MANAL ISMAIL, GAC CHAIR: Yeah fair enough. Please go ahead.

HEATHER FORREST: So looking at first item there, what I think would help us is specific questions from you we have I will turn the microphone to Donna in addition to be vice chair is liaison. And they can answer your immediate questions. And provide a snapshot of milestones here. But then any much more detail question what I

would suggest that we do is take that back to our colleagues the co chairs of PDP. With that I am happy to turn it over to Donna.

MANAL ISMAIL, GAC CHAIR: If I may just to note also that we had yesterday a very good exchange with the co chairs of the new gTLD subsequent procedure. So Jeff and Cheryl were here and we had also a discussion on Work Track 5 and Olga was there as well. Note the importance of the topic and if we have any follow up questions. I don't think this will take long as an agenda item because we had already had an extensive discussion already yesterday. With this I hand over to you Donna or maybe we can open the floor?

So let's see if there are any follow up questions or specific questions to GNSO in follow up of yesterday's discussion. Okay. If not then maybe we can go directly to maybe start with the GNSO works in general and then what the 3.0 proposal is about.

HEATHER FORREST: Just a final closing comment PDP should you have questions that arise after we all leave here in Panama and ongoing basis. Please take the opportunity to channel those to our to GAC and you foresee that they find the rightful home.

MANAL ISMAIL, GAC CHAIR: Thank you for this offer. Iran please.

KAVOUS ARASTEH: We raise some questions at least I raise some questions and hope the co chair of this will kindly consider and take into account the maximum extent possible.

MANAL ISMAIL, GAC CHAIR: Thank you Kavous. Any other remarks before we move on to GDPR? I keep saying GDPR but we are going to talk about GNSO and how it functions the normal PDP and expedited PDP and PDP 3.0.

HEATHER FORREST: This by way of explanation and context. What that means is 3.0 suggests that this is really the third opportunity that the GNSO has had to evaluate it's policy development process. We began with a model, I suppose we might call PDP version one. We moved into and the model that exists today to the extent that we put a number on would be version two.

And in PDP 3.0 is what this initiative is attempting to do is reflect on PDP as they are run today. We receive a tremendous amount of feedback including members of GAC as to the complexity of a PDP. The length of time a PDP takes. The ways to channel input

into a PDP. The timeliness of that input. The GNSO and GAC have separate initiative in forms of recommendations that resulted in various input mechanism. This is looking at PDP more broadly and an opportunity to reflect upon some incremental changes both short and long term to help us make the PDP more effective and efficient. This neatly dovetailed into the FY19 budget. And take budgetary consideration into better consideration in terms of managing resources involved in PDP.

So we had a discussion in January earlier this year as GNSO Council as we came together in strategic planning session. Looked at year ahead and workload that we currently have and sought to evaluate how best to allocate the limited resources and time that we have.

And that resulted in some ideas around, well first of all, some noting identification of challenges. What could be done better? What are we hearing from community? And what are we seeing as members of PDP working groups? Those inputs were captured in discussion paper that went out to GNSO board, community, stakeholder and constituents. And culminated in across community in San Juan. Thinking about PDP can become more efficient and effective. The result of all of that input was capture in discussion paper that we communicated to broader community. And what is happening now I am afraid it's the

GDPR problem. We have not lost sight of this. We have extended the opportunity for stakeholder groups and for that comment.

We will consider our own thoughts and then determine next steps to how we go forward. What I will say there is neat connection between the observation made in course of information gathering exercise and what we are considering now in expedited policy. This is an opportunity if you like to implement some of these possible tweaks or changes or improvements to improve the effectiveness of this EPDP. And this is particularly timely and important given the very tight timeframe on EPDP. So certainly our discussion, ideas around efficiency and effectiveness would be relevant there. This is very much a discussion in progress. Will be very happy to keep you updated on this. It's a live experiment in form of expedited policy development. And cross community session that we had yesterday afternoon it was lovely to see so many members of GAC in audience for that. Many of the ideas capture have been raised in PDP 3.0. With that I would like to turn to my colleague Donna and Rafik and see if they have anything they would like to add here.

MANAL ISMAIL, GAC CHAIR: Thank you Heather. Let me turn to my GAC colleagues and see if there are any questions or comments? Iran.

KAVOUS ARASTEH: Not questions but comments. At least I would wish to express clearly that the two past PDP resulting the recommendation to the board and GAC advice are two different processes totally. One does not replace the other. And one does not intervene with the other. However, the objective would be to minimize any potential conflict between the two we have seen that our colleagues from GNSO are very, very active immediately after each GAC advice they issue a paper and go to the detail of that and analyze that and comment on that. And sometimes perhaps, they scrutinize and so on and so forth. Better need to understand and minimize this sort of eventually or potential conflict. I hope that this PDP 3.0 would will take into account some of those and reduce the number of these difficulties in the future. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you Kavous. So any other comments? Yes Donna please.

DONNA AUSTIN: I think I would like to say we understand the challenges as well and it creates difficulties for the council we understand that potential recommendation from a PDP might be in conflict with GAC advice. We are sensitive to it and what we had some

discussion with the board in the past. What mechanisms are available to us to try to resolve those problems before we get to the impasse situation council approves that we know are in conflict and goes to the board and gets stuck. We had a few conversations about it, we still don't have the answer. But perhaps opportunity for GAC and council to work closely together and get to the bottom of that. I think it's a misunderstanding of we do our business and you do your business. Perhaps it's an opportunity to have a conversation to get to the bottom of it and try to resolve those problems before they become a real problem. Thanks.

MANAL ISMAIL, GAC CHAIR: Thank you Donna I have India next.

INDIA: I welcome the effort and part of the GNSO to share with us the developments in terms of PDP 3.0. And process that has been adopted by them in the process of arriving at this paper. However, I feel that there is merit in having greater community discussion on the subject because it has resonance beyond the GNSO. Certain parallels could be drawn for benefit of working groups in GAC also. And I also feel that this would be other successful working group efforts within the community from which we could draw parallels and possibly feed into improving

this PDP 3.0. So I think we could consider that for greater community discussion and for documenting efforts. And trying to feed into this to improve it to the maximum extent possible. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you. Yes Heather please go ahead.

HEATHER FORREST: When the community leader met prior to Puerto Rico that was the timing of the initial publication of earlier draft of council's thinking before we had community thinking. And something that I found very interesting was the reaction of the chairs of the other stake supporting organization and advising community. The ALAC and CCSO all pointed to this document and said this was useful. That signaled to me that we weren't simply informing our own work. One of the tangible outcomes of having shared that work we are working more closely as chairs together to identify commonalities in our workload.

And that will then hopefully lead to better collaboration and better efficiency and better use of resources across the organization as a whole to the extent that we were able to more collaboratively at start of year this is what we have on our plate this year. What do you have on your agenda and compare? That

would certainly draw some similarities and have that open dialog between ourselves. I very much appreciate your comment and leverage this opportunity.

MANAL ISMAIL, GAC CHAIR: I cannot agree more. I think meetings are very useful and we have been reporting to the GAC on outcome of the meetings at least the topics being discussed. And definitely the prioritization and finding common priorities to sort out the workload problem is priority for everyone. Any other comments before we move deeper into we had a set of questions that were compiled through input of GAC colleagues?

So first question is what is the GNSO assessment or experience with the current temporary specification? Would you like me to go through all of them or one by one? All of them first. The next question is what are the GNSO's view on where the unified access model fits with temp spec and EPDP. Current thinking on EPDP scope expected time line for definition of scope and consideration of GAC input into the scope.

Fourth question is on what are the respective roles on the board and GNSO in defining the scope of expedited PDP. And I think this is the last question. Who is in charge of coordination of the overall process given that we have temporary specification, the 90 day reaffirmation, EPDP, unified access model, other

community models, SSAC advisory and the different elements that we all know about.

I know EPDP is uncharted ground and we all struggling with a new thing that we are all trying. Again we thought it would be useful to brainstorm on those questions. With this I hand over for you for any responses?

HEATHER FORREST:

I will give an introduction of all of these questions. At once it's help to see a whole list to have a broad sense of thinking. By way of background and context. What I will say we are at the stage at this point in time of developing the documents that will initiate the expedited PDP. Those documents are called a charter and initiation request. They do not deal at all with substance.

They don't deal with our assessment or views on the unified access model. So these particular substantive questions have not yet been raised within the GNSO Council. Within terms of those documents that will initiate the expedited PDP, scope is one of the aspects in that document. And that was raised yesterday in the cross community session and discussed at length to a very helpful degree to hear the community's thoughts.

On scope you have question here about scope, we have had some extensive discussions already with the board beginning soon after San Juan and on fairly regular basis since then. To provide specific questions. In relation to the board's expectations we have taken quite a bit of input from them and that's very much appreciated. So in terms of where we are in this process, by way of very current information, yesterday evening at 5:00 p.m. we health a cross community topic to solicit input on six different if you like broad basket of areas that will find their way into the charter. We have today to discuss those.

So we started at nine this morning to come here to speak to you. And in fact the item that you pointed to here scope is one that is obviously of a great term to us. It's one that we talk about after we leave here. So we haven't actually spoken about this yet this morning. So I couldn't honestly give you our current and best thinking because we don't have at this stage current and best thinking. Yesterday we were in listening mode. Yesterday we sat and listened to community and import all of that feedback into our discussion that well have after lunch today.

It's not that I, in any way, shape or form being evasive here. We haven't had a chance to talk about that ourselves. We do have a GNSO at 1 o'clock. And have on the agenda a place holder motion. A motion to approve a charter and initiation request. We are working today on those documents to determine if we be

able to vote tomorrow. If we do not have those documents ready we won't be in position to vote. That will require us. This is very much a work in progress. I think well have a better sense this afternoon after we had a chance to meet today and following the opportunity we have leads of GNSO Council on each of these important topics. Those individuals will work on drafting some text that council can then consider overnight and into tomorrow. By this evening we will have a better sense of where we are on a number of these things.

Let me pause there because I am conscious that we have the GNSO Council scattered throughout the room. Let's take a pause and make sure I haven't missed anything and we can carry on with your specific questions.

DONNA AUSTIN:

If we just look at first question what is GNSO assessment of experience with the temporary specification. I think we have spent a lot of time trying to understand what this is from a procedural perspective. Rather than the stance to understand what the council's and GNSO obligations are in relation to this. Our obligation is based around the temporary specification is an enforcement obligation on contracted parties. And the 12 month requirement is related to the fact that if the council or GNSO doesn't confirm the temporary specification as consensus policy

then that goes away. That temporary specification theoretical goes away. It's important to remember that it's the GNSO role to develop consensus policy as it relates to gTLD.

That's why this obligation sits with the GNSO because in the ICANN construct the GNSO is only entity that can develop consensus policy. I wanted to make this point that is why this is GNSO obligation because in accordance with bylaws we are only organization within ICANN that can do that. The board can use temporary specification because of something that was considered security and stability issue that requirement to consider it confirm or not consensus policy falls back on to the GNSO. Thanks.

MANAL ISMAIL, GAC CHAIR: Thank you Donna. I will try to speculate here and please whoever proposed the question can maybe confirm or correct me. I think and the purpose of the question was maybe in practice registry the specific if there are assessments or feedback through the practice of temporary specification. I think it was not that related to the process but good to hear on the process as well.

MICHELE NEYLON: The term was given to us quite late in terms of timing in order for a company to maintain service and procedures and all of these things take time. So we all knew that GDPR was coming into effect on 25th of May. However, we did not know what ICANN would do, what they would ask us to do? What they would change? Until eight days before the 25th of May. Some of you in the room have tried to organize a family holiday but probably involves people you have some control over. Imagine a situation where realistically speaking your way of doing things is up ended. That has posed challenges. From conversations that we had registrar and registries are trying to work together. Things should work. In terms of the timing it was not idea which is the most diplomatic way I can put it. If that is what you are asking about particularly. How this is going to play out over the next 12 months? This entire thing with the PDP is crucial to us. We need to have certainty.

MANAL ISMAIL, GAC CHAIR: Thank you very much. I have Iran next.

KAVOUS ARASTEH: Yes I wish to comment on what Donna mentioned. Yes we understand that preparation, process, approval, and other associated actions of PDP are normally and generally within the limit of the GNSO. We understand that. However, we are working

colleagues, collectively, the issue here because relates to the temporary specification which relates to GDPR is fundamental importance to GAC. We would like this exclusive authority be understood that is in consultation with and collaboration of the concerned party including GAC.

We would like to work together because at the end result we need to benefit from that. And might have advice and not wish to have conflict. Reducing or minimizing conflict. I hope that it's understood by the GNSO that we need to have active participation, active role, and collaborative role within this issue of temporary specification. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you Kavous. Any other comments from the floor? Yes CTU please.

NIGEL: Just to clarify in my own mind when we say temporary specification goes away in case you are not successful with EPDP. It means that we will automatically revert back to prior GDPR policy.

ERICA: This is one confusion and I don't know how to say it political and diplomatically. When we talk about temporary specification they are not practically overruling the GDPR for everybody, all the contracted parties are dealing with personal European data. They have to comply with the law right now. So nobody can wait until decision temporary specification in a year's time or whenever they are ready. We have to keep this in mind. This of course, is only impacted contracted parties or processing. So we have to keep in mind the process looks a bit more complicated in reality than we see it sometimes showing on these slides. So I am just saying that we sufficiently realistic of what we are dealing with. These temporary specs are super important to get these done within the time limit. But they are not replacing of course, the current legal situation.

MANAL ISMAIL, GAC CHAIR: Thank you Erica for this important clarification.

MICHELE NEYLON: The question I believe is if the EPDP fails what then?

UNIDENTIFIED SPEAKER: The short answer is you end up in unknown situation. Erica need to operate within the law. We cannot go back the legacy who is, the legacy contracts. The legacy whatever. We have to

operate within the law. If there is no replacement for the temporary specification and the temporary specification is no longer active then if you think potential fragmentation now. It would be existential crisis. It would be a mess and would not be pretty.

MANAL ISMAIL, GAC CHAIR: Thank you. Any other requests for the floor. Kavous. Iran please.

KAVOUS ARASTEH: I want to clarify or at least be informed that this morning we heard from some of the panelist and similar issues or perhaps the issues that there might be a possibility of the second temporary specification. How do you see that? Thank you.

MANAL ISMAIL, GAC CHAIR: So this is in response.

DONNA AUSTIN: That is not within our wheelhouse at this time so we cannot comment on it.

MANAL ISMAIL, GAC CHAIR: You want to respond?

KAVOUS ARASTEH: Because of the time limit because so many things, complexity and so on and forth. That is what I had. This is not coming from me. And I said there might be an idea to consider. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you Iran. US I missed your hand do you request the floor?

ASHLEY, US: And thank you for sharing this. Still in discussion phase with respect to all the there are some discussion with respect to representation of the group and that there is some consideration of the GAC having three representatives and two alternates. Is that something that you are in a position to confirm? And then my second point isn't a question but just a reiteration of what we have been discussing this morning, coming to terms with acceptable access and accreditation model. What is going to be the most appropriate vehicle but from the GAC, we are keen on having in the near term having access over accreditation issue.

MANAL ISMAIL, GAC CHAIR: Thank you US. Heather.

HEATHER FORREST: Thank you very much you identified the chief question for you coming in here today. At present we only heard informally about what you might have this is opportunity for us to hear from you in relation to how you envisioned effective collaboration in the EPDP. So to answer your the request was on your side. And very happy to take that back. We have not at this stage gone very far in our own thinking even within the GNSO. We had discussion this morning. But this is very timely intervention. So that your request finds it's way into that language. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you. So please provide input to this question as we go. I have Keith no. Keith go ahead

KEITH, GNSO: So I was just going to follow up on Heather's comment to say that yes we indeed this morning began our conversation in the council about the possible construct of the PDP, EPDP working group. And we are actively working and considering proposal for further consideration this evening and moving forward throughout the week. The principles that we have discussed are inclusivity and making sure the community is represented in this effort. And efficiency and effectiveness. So we have to find the balance that everybody who has an interest. So also keep the group nimble enough. Or efficient enough to accomplish the

task required in essentially a four month period. Leading into the requirements for the initial report which is around the Barcelona meeting. And to do that in cost effective manner. Anticipating need for one or more face to face meetings. These are the things that we are balancing and welcome your input into that conversation.

MANAL ISMAIL, GAC CHAIR: And just by way of background I mean everyone was wondering where the numbers came from, we were just guided by the numbers that came out in the strawman report or strawman paper. We are seeking balanced representation and I stand to be corrected by GAC colleagues here but let me first. Iran.

KAVOUS ARASTEH: We understand that the group, first we understand that they should be active participation of the concerned people. Concerned group, concerned entities. Number two, we also understand that the number of members should be limited and so on and so forth. We have previous example of that. It's not identical but similar. It's equal participation for then we have something from other than the SO and AC and it worked well. And also I just thought that when the group is established and the management or leader team is established whether it's vice chair or co chairs. And also in the charter given authority that

the leader invite on specific period of time or within from specific expert outside of this to provide information. Invited only. We think perhaps we should not extend like CCWG to participant. This is not very effective. Doesn't mean that the people would not have an opportunity but it would be more effective if the number is limited. The GAC should have participation effectively and this is up to the GAC to decide how this participation will be made. Made by regional or other things. But we need to have this active participation and this equal treatment in the membership of that group. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you. Keith please.

KEITH: Thank you Kavous. And it's interesting that you referenced the ICG. It's something that I referenced in our conversation at GNSO Council earlier today. The council has been presented over the course with a range of options in terms of how this might be structured. There was language included in our draft charter document that we are considering. This is still very much an open question. I wanted to note that no numbers have been finalized at this point. Active discussion in GNSO council. And we have to make sure that we are following the operating

procedure for GNSO PDP ensuring that this is participation from all interested parties.

MANAL ISMAIL, GAC CHAIR: Thank you Keith we are just trying to prove that we are faster than expedited PDP. European commission.

EUROPEAN COMMISSION: Some of the points that I made this morning in front of the GNSO Council. In particular that we need to have comprehensive WHOIS policy in place. And not just the partial approach that we have now in temporary specification. And this policy should include access and accreditation. On participation I agree with what has been said by GAC colleagues that we need to have appropriate representation. Of course, all voices should be heard but the GAC and government have a specific voice to provide especially as governments have experience of situations at national level and can provide feedback on that.

I think it is for the GAC to decide who is going to participate from our side. And then I would like to clarify that yesterday we heard that people were expected to 30 hours a week into the process. Which is very, very high. Probably broad representation would allow to spread the effort and would be advisable.

HEATHER FORREST: May I come back to a point that was earlier raised by Kavous and I think it actually aligns with the comments that were just made by the European Commission in relation to the importance of involvement of the GAC and the broader community. We recognize that this is an issue that affects the community as a whole. And in terms of evidence of our appreciation of that fact I would offer the session that was held last night that had as a singular purpose to have input from the community before we even began our substantive discussion. I offer that simply to underscore appreciation we have in involving the community. We will continue to think creatively how we involve the community and very much in the forefront of our mind. I didn't want to let that earlier comment go unnoticed.

MANAL ISMAIL, GAC CHAIR: Thank you Heather.

MICHELE NEYLON: Not speaking on the behalf of the entire GNSO Council, speaking on some of the registrar and registries we feel that GAC participation in this work in some shape and form very important. And been discussing both the council and yesterday and elsewhere. And also something that we discussed if PDP 3.0 conversation as well.

There are different ways to participate. You do not need to be a member of particular group to have your voice or thoughts heard. Specifically when it comes to GAC participation in this work. As it involves matter of laws and matters of data protection. If you are putting forward some members to this group that at least one of them be someone with data protection expertise. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you Michele.

Questions or comments? Then any final remarks? Okay. Then thank you very much for this useful exchange and thank you for taking the time every meeting for this bilateral exchange and thanks for all the council and GNSO colleagues in this room and thank you for my GAC colleagues for active participation.

We will be reconvening here for GAC colleagues at 1:30 please.

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