FINAL STATUS REPORT & RECOMMENDATIONS

10 October 2016

GAC-GNSO Consultation Group
on GAC Early Engagement
in GNSO Policy Development Processes

Contents

BACKGROUND

ICANN receives input from governments through the GAC. The GAC's key role is to provide advice to ICANN on issues of public policy, and especially where there may be an interaction between ICANN's activities or policies and national laws or international agreements. The GAC usually meets three times a year in conjunction with ICANN Public Meetings, where it discusses issues with the ICANN Board and other ICANN Supporting Organizations, Advisory Committees and other groups. The GAC may also discuss issues between times with the Board either through face-to-face meetings or by teleconference[1].

The GNSO is responsible for developing policies for generic Top-Level Domains (e.g., .com, .org, .biz). The GNSO strives to keep gTLDs operating in a fair, orderly fashion across one global Internet, while promoting innovation and competition. The GNSO uses the GNSO Policy Development Process (PDP)[2] to develop policy recommendations which, following approval, are submitted to the ICANN Board for its consideration.

The Governmental Advisory Committee (GAC) and the Generic Names Supporting Organization (GNSO) jointly established a consultation group to explore ways for the GAC to engage early in the GNSO Policy Development Processes (PDP) and to improve overall cooperation between the two bodies (for example, by exploring the option of a liaison). The consultation group commenced its work in December 2013.

The launch of this GAC-GNSO Consultation Group (CG) on Early Engagement was the result of discussions between the two entities at the ICANN meeting in Buenos Aires as well as at previous ICANN meetings, reflecting a joint desire to explore and enhance ways of early engagement in relation to GNSO policy development activities. The issue was also specifically called-out by both Accountability and Transparency Review Teams (ATRT).

The Consultation Group comprises approximately equal numbers of representatives from each of the GAC and the GNSO to a total number of approximately 12 active members. The work is divided into two work streams, the first concentrating on mechanisms for day to day co-operation and the second on the detail options for GAC engagement in the GNSO policy development process (PDP).

[1] For further information, please see https://gacweb.icann.org/display/gacweb/Governmental+Advisory+Committee

[2] For further information, please see https://gnso.icann.org/en/basics/consensus-policy/pdp

ACHIEVEMENTS TO DATE

Per its Charter, the CG was tasked to:

Goal:

GAC early engagement in GNSO PDP projects and closer functional coordination between the GAC and the GNSO organizations

Objectives:

- *An agreed process for ongoing smooth and timely information exchange between the GAC and the GNSO*
- *An agreed process for ongoing smooth early engagement of GAC in GNSO PDP projects*
- *An agreed procedure for how to proceed in cases where GAC early input is in conflict with a GNSO proposal and a mutual agreement could not be reached*
- *Proposals for accommodating the different working methods between the GAC (which tends toward an intense, "episodic" norm) and the GNSO (which is geared toward constant ongoing level of effort).*

Deliverables:

- *A documented process (table, flow chart, …etc.) for ongoing smooth and timely information exchange between the GAC and the GNSO organizations (GNSO Liaison to the GAC, permanent liaison/consultative group, … etc.)*
- *An agreed documented process (table, flow chart, … etc.) for ongoing smooth early engagement of GAC in GNSO PDP projects; along with an agreed documented procedure to be followed where GAC early input is in conflict with a GNSO proposal and a mutual agreement could not be reached*

Achievements to date:

- Following evaluation of GNSO Liaison to the GAC pilot project, appointment of GNSO Liaison to the GAC on a permanent basis
- Survey of GAC members to assess use and effectiveness of existing information & communication tools
- Regular updates provided to the GAC by the GNSO Liaison to the GAC
- One-stop-shop GNSO Policy Efforts Information Page (see http://gnso.icann.org/sites/gnso.icann.org/files/gnso/presentations/policy-efforts.htm).
- Dedicated GNSO ICANN meetings information page (see http://gnso.icann.org/en/icannmeeting)
- Implementation and evaluation of Quick Look Mechanism (QLM) to facilitate GAC early engagement in issue scoping phase of GNSO PDP implemented on a trial basis
- Survey of GAC and GNSO to obtain input on the experiences to date with the Quick Look Mechanism as well as additional suggestions and ideas for opportunities for early engagement in the other phases of the PDP (see https://www.surveymonkey.com/results/SM-6ZLVM39T/)
- Institutionalized joint GAC-GNSO Leadership meeting prior to ICANN meeting to prepare for joint session and address any issues / concerns

The work of the CG has also led to discussions within the GNSO bringing about the establishment of the GNSO Review of GAC Communique after each ICANN meeting to enhance co-ordination and promote the sharing of information on gTLD related policy activities between the GAC, the Board and the GNSO.

OUTSTANDING ITEMS & RECOMMENDATIONS

Following ICANN56, the CG reviewed the charter and noted the following outstanding items. For each of these, the CG has included some observations as well as a proposed recommendation to close out these outstanding items.

Day-to-day ongoing co-ordination

A. Review whether any additional day-to-day ongoing co-ordination mechanisms should be considered in addition to existing information and communication methods identified earlier (utilizing, streamlining and prioritizing early awareness & notification notices; rethinking current joint meetings, and; GAC Chairs/GNSO Chairs regular interaction).

Proposed recommendation #1:

- #1a. The CG recommends to schedule a consultation between GAC Secretariat, the outgoing and incoming GNSO Liaison to the GAC and relevant support staff to review current information and communication methods and determine what improvements, if any, need to be made. It has been suggested that, as part of the formalization of the GNSO Liaison to the GAC, regular meetings between the GAC Secretariat and the GNSO Liaison to the GAC should be scheduled to discuss and review on an ongoing basis information provided as well as for co-ordination purposes. The results of such consultations are to be shared regularly with the GAC and the GNSO for their information.
- #1b. The CG recommends to further strengthen the contacts between the leadership teams of the GNSO Council and the GAC by providing for periodic conference calls and meetings where pressing issues could be debated. Furthermore, "topic leads" from both groups could be invited to participate, when deemed timely and appropriate.

B. Document process flow for ongoing smooth and timely information exchange between the GAC and the GNSO.

Proposed recommendation #2:

- The CG recommends that, following the review and support from the GAC and the GNSO for the proposed recommendations contained in this document, ICANN staff is to develop a process flow, based on existing mechanisms, highlighting those that have been added as a result of the GAC-GNSO Consultation Group. Once completed, the process flow will be shared with the GAC and the GNSO, and posted online.

GAC Early engagement in GNSO PDP

C. Consider other phases of GNSO PDP (initiation, Working Group, Council deliberations and Board vote) to determine whether additional recommendations should be considered for these phases to facilitate GAC early engagement in the GNSO PDP.

Observations:

The survey results indicated that a majority of respondents (over 60%) agree that the Quick Look Mechanism (QLM) positively contributed to the early engagement of the GAC in the GNSO Policy Development Processes as well as facilitated the preparation and engagement of the GAC in the later stages of a PDP (75% of respondents). Some of the comments suggest a need for additional pro-activeness on the GAC side, but this is outside of the CG's remit.

Proposed recommendation #3:

- The CG recommends to make the QLM a standard feature of the PDP, factoring in the possible

simplification/generalization of the process proposed in the 'GAC Quick Look Mechanisms Experiences to Date' document.

Observations:
In relation to the other phases of the PDP, there is strong support (75%) for exploring further GAC early input in the GNSO PDP as well as GAC input as part of the public comment period on the Initial Report (62.5%) as well as communication of GAC concerns during GNSO Council deliberations (62.5%). It should be noted, though, that the GAC has responded to the requests for early input from recent PDP WGs, has members actively participating in these PDPs and it is also likely that the GAC plans to continue its engagement throughout the other phases of the PDPs. As such, it may not be necessary to put further mechanisms in place as the objective of early engagement of the GAC in GNSO policy development seems to have been achieved.

Proposed recommendation #4:
- The CG recommends no further action. However, as part of the regular dialogue between the GNSO and GAC leadership as well as interaction between the GNSO Liaison to the GAC and the GAC Secretariat, the status of GAC early engagement in GNSO policy development is reviewed and discussed. Furthermore, the CG encourages PDP Working Groups to communicate to the GAC how its input has been considered and addressed, and encourages the GAC to strengthen its participation in the later stages of the PDP.

D. Consider possible procedure for how to proceed in cases where GAC early input is in conflict with a GNSO proposal and a mutual agreement could not be reached.

Observations:
There is a concrete example of a PDP that conflicts with GAC Advice (IGO protections), however, this PDP predates the early engagement mechanisms that have been put in place as a result of the CG's efforts. At the same time, differences of opinion in relation to the PPSAI PDP are expected to be considered by the Implementation Review Team, with results to be determined (though the enhanced engagement and dialogue are welcomed). There appears to be limited support based on the survey results (37,5%) to explore such a possible mechanism further.

Proposed recommendation #5:
- The CG recommends no further action on this topic. Instead, the GAC, the GNSO and the ICANN Board should all assess the impact of the early engagement mechanisms and based on that assessment determine whether such a conciliation mechanism is to be developed at some point in the future. Nevertheless, the CG does encourage the GAC and the GNSO Council to engage in dialogue, either through the regular mechanisms identified (GNSO Liaison to the GAC, GNSO-GAC leadership meetings) or on an ad-hoc basis in those instances where there is an obvious difference between the proposed PDP recommendations and GAC input that has been provided. Such a dialogue could for example take place following the publication of the Initial Report and/or before consideration by the GNSO Council of the Final Report.

E. Evaluate effectiveness of preliminary recommendations[3] on GAC early engagement in issue scoping phase of GNSO PDP.

Observations:
Overall the feedback received is positive and the early engagement as a result of the information and

[3] Preliminary recommendations include the information and communication tools, the GNSO Liaison to the GAC and the Quick Look Mechanism (QLM)

communication tools, GNSO Liaison to the GAC as well as the QLM appear to have achieved the desired result of GAC early engagement in the GNSO PDP.

Proposed recommendation #6:

- The CG recommends that the GAC and GNSO Leadership teams as well as the GNSO liaison to the GAC and the GAC Secretariat use their regular engagements as opportunities to review and discuss the status of early engagement to allow for early identification of potential issues and/or other mechanisms that could be considered.

General

F. Agree on a follow-up mechanism and success measures.
G. Maintain a channel to provide feedback to further enhance the process and document those changes whenever applicable.

Observations:
With early engagement mechanisms in place as well as platforms for regular communications and exchanges of views, there may not be a need for a standing follow-up mechanism at this stage. Furthermore, it is the expectation that ATRT3 will review improvements and assess effectiveness of GAC early engagement in the GNSO PDP.

Proposed recommendation #7:

- The CG recommends that the GAC and GNSO Leadership teams review, as part of their regular exchanges, the status of GAC early engagement in the GNSO PDP and recommends that the GNSO Liaison to the GAC provides an annual report to the GAC and GNSO that highlights early engagement efforts to date as well as possible improvements to be considered. Based upon the review of these possible improvements by the GAC and GNSO, next steps can be determined.

CONCLUSION

With this final status report and proposed recommendations, the CG is of the view that it has fulfilled the requirements of its charter and considers its work complete.

Proposed recommendation #8:

- The CG recommends that upon review and adoption of this final status report by the GAC and GNSO, the CG is dissolved.

FURTHER INFORMATION

For further information, please see:

Consultation Group Wiki: community.icann.org/x/phPRAg
Mailing List Archives: mm.icann.org/pipermail/gac-gnso-cg/
Consultation Group Charter: community.icann.org/x/PyLRAg