

## Summary Report of my GNSO-GAC Liaison Role (2016-2017)

### 1. GACs growth since the 2012/13 expansion

Looking back at the last 5 years since the last expansion of the DNS, the participation of the GAC in the policy making process has evolved substantially. This evolution has to be seen within some relevant environmental changes to the GAC itself:

- Growth in number of the countries represented, while the number and names of active participating members has remained more or less the same. Most of the new members of the GAC have less resources and are less experienced in the DNS environment than the core group used to influence GAC positions on many issues, as well as backgrounds and organizational structures its members represent today. Far from having an homogenous view on the development of the DNS, the actual GAC diversity has greatly expanded the number of views and positions. The result is that the GAC has become more flexible in terms of looking for public policy positions and its consensus advice to the Board has become both more forceful but more general at the same time, as opposed to be based on particular rationale.

- Lack of a permanent internal structure within the GAC to work all year long all relevant policy issues (instead of during meetings only). As mentioned above, the larger GAC has less time to have detailed discussions, with the exception of a few specific working groups. Its internal secretariat has been reduced in scope and numbers to the most relevant executive issues of the leadership, like summarizing the most relevant issues ahead of each meeting, Communique drafting and keeping information flowing for the Leadership group. Only in the most specialized cases, have Governments brought in specialized knowledge to participate: LEA in the Whois discussions, OECD and WIPO staff for the protection of IGOs, specialized staff from the European Commission to the Competition Review Team and probably other examples I don't know.

- The public interest/public policy framework: In recognition that after the transition to an organization independent of any Government, the community has so far avoided to define a general external reference or framework for the public interest or public policy views, and it is more than ever important that the GAC should bring this perspective into the ICANN policy development process. Far from a common standard, GAC Advice is seen as a valid position of another community member, instead of a common external standard of homogeneous public policy. And we should welcome and foster this new public interest perspectives within the Internet dynamic development.

## 2. New levels of GAC engagement in the policy development process

It is within this new ICANN and GAC dynamic that the engagement between the traditional policy development process and the traditional Governmental Advice has to be evaluated today. And it is from a strictly personal perspective that I would like to give my personal observations to what has happened over the last year.

- GAC Advice to relevant public interest issues during the evaluation and delegation process of the DNS expansion still has not been fully evaluated and/or processed. Under this section, I would like to call attention to the fact that PIC for highly regulated sectors, as well as voluntary PCI by applicants have brought about a whole range of TLDs of reduced openness as compared to previous gTLDs. We still lack a systematic evaluation on the rational of this aspect of the expansion, based on public interest reasons. The issues is present in both the CCT-RT and the Subsequent procedures PDP, but it is my view it should be very high in the priority list of the GACs participation in the policy process. The community should come to a more homogeneous consensus about the value and importance of the GAC advice in this important expansion if it was sufficient, or take the necessary measures in the eventuality if it was not.

- GAC/GNSO Consultation Group recommendations and its implementation limitations. The “Quick Look” mechanisms for early engagement in PDP processes, has been the core of the new engagement framework. In view of the larger issues on the table (Accountability 2, periodic reviews, and other CCWGs) the input of the GAC in the early engagement phase tends to loose and relevance and lack follow up in view of the long PDP cycles. While the process looks solid in paper, it should not be up to the GAC communicate only, to keep track to those inputs, but also to the records of the individual PDP themselves. In the end it is up to the PDP final reports to convince the community that the public interest has been duly considered in tis final recommendations.

- GAC participation as a full member of the cross community efforts has opened new venue for very experienced individuals from the GAC membership to participate and contribute substantially to those efforts. Some working groups have enjoyed the inputs from Governments members greatly, like privacy experts, OECD and WIPO officers, etc.) Those inputs should be duly recognized as early advice in terms of public policy in the PDP processes without compromising the positions of the repetitive countries they represent and not preempt the GA final consensus advice. The GNSO should welcome this opportunities and make more space for those contributions.

### **3. Recommendations to further the public policy and the public interest perspectives into the GNSO PDPs cycles**

Effective policy development engagement with Governments need to take into account the recent experience with the development of the GACs role, and adapt to the challenges ahead. From my recent personal perspective I submit the following suggestions to the the GNSO council to further improve the engagement and direct cooperation with the GAC:

- As the GAC is limited in terms of time and internal support staff for policy engagement between meetings, we should be aware of the (limited) role of the ICANN staff supporting the GAC's can provide for the engagement in policy development under the public policy/interest perspective. If this support can't be expanded in this direction, not much more can be expected in terms of GACs early engagement. For example summary reports to the GAC of PDP calls, special mention of public interest consideration, etc. should be explicitly recorded in the PDP documentation, recordings, etc.. This should facilitate follow up by interested GAC members between meetings.

- The track record of the early engagement in terms of specific public policy commentaries/advice can't be based on the GAC Advice to the Board (Communiques) alone. Because of the limitations already recognized above, it should be up to GNSO, as most recent participants in the PDPs and CWGs have done it based on a personal participation instead of a GAC wide representation. Webinars by PDP Chairs to GAC members have been rather effective in recent past.

- The GNSO Council has to keep track and follow up of the open public policy issues pending of previous policy processes (INGOs, Red Cross, .amazon, community PIC, etc.) instead of waiting until the GAC brings feedback up to the Board via the Communique. A proactive pending issue list should be regularly updated between the GAC and respective PDP Leaderships

- PDPs should be open not only to permanent GAC members, but help to search and invite other Governmental participants with specialized knowledge on the issues at stake. Such experts should be able to participate as subject of matters experts and consider their input in terms of wider public interest. (Example UK coordination with Intellectual property office, EU subject matter experts, observers from WIPO, OECD, etc.)

- Keep open the discussion on a general framework of public interest, that may be the minimum standard acceptable to all GAC members , so that both sides have an easier way to follow up on each other work tracks and perspectives in each opportunity they engage and not only during ICANN meetings.

I would like to thank the GNSO Council and many trusted friends in the GAC for its support during this year.

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