



## Governmental Advisory Committee

Buenos Aires, 20 November 2013

### **GAC Communiqué – Buenos Aires, Argentina**

#### **I. Introduction**

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Buenos Aires during the week of 16 November 2013. 56 GAC Members attended the meetings, with one GAC Member participating remotely, and five Observers. The GAC expresses warm thanks to the local host, NIC Argentina, for their support.

At the beginning of its meeting the GAC expressed its sympathy for and solidarity with the people and government of the Philippines following the recent disaster of Typhoon Haiyan.

#### **II. GAC Advice to the Board<sup>1</sup>**

##### **1. Category 1 and Category 2 Safeguard Advice**

The GAC welcomed the response of the Board to the GAC's Beijing Communiqué advice on Category 1 and Category 2 safeguards. The GAC received useful information regarding implementation of the safeguards during its discussions with the New gTLD Program Committee. GAC members asked for clarification of a number of issues and look forward to ICANN's response.

- a. The GAC highlights the importance of its Beijing advice on 'Restricted Access' registries, particularly with regard to the need to avoid undue preference and/or undue disadvantage.

##### **i. The GAC requests**

1. A briefing on whether the Board considers that the existing PIC specifications (including 3c) fully implements this advice.
- b. The GAC requests a briefing on the public policy implications of holding auctions to resolve string contention (including community applications).

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<sup>1</sup> To track the history and progress of GAC Advice to the Board, please visit the GAC Advice Online Register available at: <https://gacweb.icann.org/display/GACADV/GAC+Register+of+Advice>

- c. The GAC considers that new gTLD registry operators should be made aware of the importance of protecting children and their rights consistent with the UN Convention on the Rights of the Child.
- d. **The GAC advises the ICANN Board:**
  - i. to re-categorize the string .doctor as falling within Category 1 safeguard advice addressing highly regulated sectors, therefore ascribing these domains exclusively to legitimate medical practitioners. The GAC notes the strong implications for consumer protection and consumer trust, and the need for proper medical ethical standards, demanded by the medical field online to be fully respected.
- e. The GAC welcomes the Board's communication with applicants with regard to open and closed gTLDs, but seeks **written clarification** of how strings are identified as being generic.

## 2. **GAC Objections to Specific Applications (ref. Beijing Communiqué 1.c.)**

### a. **.guangzhou (IDN in Chinese), .shenzhen (IDN in Chinese), and .spa**

Discussions between interested parties are ongoing so as noted in the Durban Communiqué

#### i. **The GAC advises the ICANN Board:**

- 1. Not to proceed beyond initial evaluation until the agreements between the relevant parties are reached.
  - a. The application for .guangzhou (IDN in Chinese – application number 1-1121-22691)
  - b. The application for .shenzhen (IDN in Chinese – 1-1121-82863)
  - c. The applications for .spa (application number 1-1309-12524 and 1-1619-92115)
- b. The GAC notes that the application for .yun (application number 1-1318-12524) has been withdrawn.
- c. The GAC welcomes the Board's acceptance of its advice in the Durban Communiqué on the application for .thai.
- d. The GAC sought an update from the Board on the current status of the implementation of the GAC Advice for .amazon.

## 3. **.wine and .vin**

The GAC took note of the developments on the two strings .wine and .vin from its previous meetings in Beijing and Durban.

GAC members have undertaken extensive discussions to examine a diversity of views on these applications, and the protections associated with Geographical Indications (GIs).

GAC considers that appropriate safeguards against possible abuse of these new gTLDs are needed.

Some members are of the view, after prolonged and careful consideration, that the existing safeguards outlined in the GAC's Beijing Communiqué and implemented by the ICANN Board are appropriate and sufficient to deal with the potential for misuse of the .wine and .vin new gTLDs. These members welcome the Board's response to these safeguards, which prohibit fraudulent or deceptive use of domain names. They consider that it would be inappropriate and a serious concern if the agreed international settings on GIs were to be redesigned by ICANN. The current protections for geographical indications are the outcome of carefully balanced negotiations. Any changes to those protections are more appropriately negotiated among intellectual property experts in the World Intellectual Property Organization and the World Trade Organization.

Other members consider that delegation of .wine and .vin strings should remain on hold until either sufficient additional safeguards to protect GIs are put into place in these strings to protect the consumers and businesses that rely on such GIs; or common ground has been reached for the worldwide protection of GIs via international fora and wide array of major trade agreements. Given this changing context, they welcome the current face-to-face talks between the applicants for .wine and .vin. and wine producers, aiming to protect their assets and consumers' interests whilst taking into account governments' public policy concerns.

The Board may wish to seek a clear understanding of the legally complex and politically sensitive background on this matter in order to consider the appropriate next steps in the process of delegating the two strings. GAC members may wish to write to the Board to further elaborate their views.

#### **4. Protection of Inter-Governmental Organisations (IGOs)**

##### **a. The GAC Advises the ICANN Board that:**

- i. The GAC, together with IGOs, remains committed to continuing the dialogue with NGPC on finalising the modalities for permanent protection of IGO acronyms at the second level, by putting in place a mechanism which would:
  1. provide for a permanent system of notifications to both the potential registrant and the relevant IGO as to a possible conflict if a potential registrant seeks to register a domain name matching the acronym of that IGO;
  2. allow the IGO a timely opportunity to effectively prevent potential misuse and confusion;
  3. allow for a final and binding determination by an independent third party in order to resolve any disagreement between an IGO and a potential registrant; and
  4. be at no cost or of a nominal cost only to the IGO.

The GAC looks forward to receiving the alternative NGPC proposal adequately addressing this advice. The initial protections for IGO acronyms should remain in place until the dialogue between the NGPC, the IGOs and the GAC ensuring the implementation of this protection is completed.

#### **5. Special Launch Program for Geographic and Community TLDs**

The GAC recognizes the importance of the priority inclusion of government and locally relevant name strings for the successful launch and continued administration of community and geographic TLDs.

The GAC appreciates that the Trademark Clearing House (TMCH) is an important rights protection mechanism applicable across all the new gTLDs and has an invaluable role to fulfill across the new gTLD spectrum as a basic safety net for the protection of trademark rights.

##### **a. The GAC Advises the ICANN Board:**

- i. that ICANN provide clarity on the proposed launch program for special cases as a matter of urgency.

#### **6. Protection of Red Cross/Red Crescent Names**

##### **a. The GAC advises the ICANN Board:**

- i. that it is giving further consideration to the way in which existing protections should apply to the words “Red Cross”, “Red Crescent” and related designations at the top and second levels with specific regard to national Red Cross and Red Crescent entities; and that it will provide further advice to the Board on this.

#### **7. .islam and .halal**

- a. GAC took note of letters sent by the OIC and the ICANN Chairman in relation to the strings .islam and .halal. The GAC has previously provided advice in its Beijing Communiqué, when it concluded its discussions on these strings. The GAC Chair will respond to the OIC correspondence accordingly, noting the OIC’s plans to hold a meeting in early December. The GAC chair will also respond to the ICANN Chair's correspondence in similar terms.

### **III. Inter-constituencies Activities**

#### **1. Meeting with the Generic Names Supporting Organisation (GNSO)**

The GAC met with the GNSO and welcomed preliminary work that has been done to identify improved ways for earlier GAC involvement in policy development processes which have potential public policy aspects. A joint GAC/GNSO working group will be established to develop inter-sessionally more detailed options for implementation.

#### **2. Meeting with the Expert Working Group on gTLD Directory Services (EWG)**

The GAC met with the EWG and exchanged views on the model proposed by the EWG for next generation directory services. GAC members highlighted a range of issues including the importance of applicable data privacy laws, the balance between public and restricted data elements, and the accreditation process to allow access to restricted data for legitimate purposes. The GAC welcomed the opportunity for continuing engagement with the EWG.

### **3. Meeting with the Country Code Names Supporting Organisation (ccNSO)**

The GAC met with the ccNSO and received briefings on ccNSO working groups on the IDN policy development process and the framework of interpretation; and the study group on country names. The GAC committed to continuing engagement with these issues, all of which have public policy implications, and will continue to work closely with the ccNSO.

### **4. Meeting with the Accountability and Transparency Review Team 2 (ATRT 2)**

The GAC is grateful for the work undertaken by the ATRT2 and discussed with review team members their draft recommendations and report, noting that it was valuable to gain an external perspective on the work and operations of the GAC. The GAC has already made progress in relation to early engagement in policy development processes, increased transparency and improved working methods, but acknowledges that there is always more to be done, particularly in outreach. GAC members noted that the GAC provides policy advice, not legal advice. The GAC noted that each member already operates within their own government's code of conduct framework.

### **5. Meeting with the Brand Registry Group (BRG)**

The GAC met with the Brand Registry Group to discuss their proposal for a streamlined process under an addendum to the Registry Agreement for the approval of country names and 2-letter and character codes at the second level. The GAC undertook to consider this proposal further and respond to the BRG in due course.

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The GAC warmly thanks the GNSO, the EWG, the ccNSO, and the ATRT 2, who jointly met with the GAC; as well as all those among the ICANN community who have contributed to the dialogue with the GAC in Buenos Aires.

## **IV. Internal Matters**

- 1. New Members and Observers** - The GAC welcomes the Commonwealth of Dominica and Montenegro as members, and the Organisation of Islamic Cooperation and the Caribbean Telecommunications Union as observers.
- 2. GAC Secretariat** – The independent consultants, Australian Continuous Improvement Group, have begun providing additional secretariat services to the

GAC. A range of measures to improve the efficiency and effectiveness of the GAC is being progressively implemented.

3. **GAC Leadership** - The GAC welcomed the re-election of the current Vice Chairs (Australia, Switzerland and Trinidad and Tobago) for a further term. The issue of a possible increase in the number of Vice Chairs to better represent regions and manage workload has been referred to the GAC working group on working methods for consideration and report.
4. **New gTLDs** - At the ICANN meeting in Durban, the GAC formed a working group to begin consideration of potential public policy input for future rounds of new gTLDs. This working group has been focusing on issues associated with the protection of geographic names, the processes associated with identified communities, and developing economy issues and applicant support. The outcomes of the Geographic names working group are expected to be presented to the community by the ICANN 49 Singapore meeting. The GAC looks forward to discussing these issues with the community in future meetings.
5. **Working Methods** – At the ICANN meeting in Durban the GAC formed a working group to consider improvements to the GAC’s working methods. A range of immediate measures has been identified and is being progressively implemented. Other matters will be progressed in coordination with related initiatives including the ATRT 2 process.
6. **High Level Meeting** - A high level meeting of governments will be held in London in June 2014 in conjunction with the ICANN and GAC meetings. The agenda for the meeting should be finalised in Singapore.

## V. Next Meeting

The GAC will meet during the period of the 49<sup>th</sup> ICANN meeting in Singapore.