ICANN | GAC

Governmental Advisory Committee

ICANN68 Virtual Policy Forum, 27 June 2020

GAC Communiqué – ICANN68 Virtual Policy Forum[1]

The GAC ICANN68 Communiqué was drafted and agreed remotely during the ICANN68 Virtual Policy Forum. The Communiqué was circulated to the GAC immediately after the meeting to provide an opportunity for all GAC Members and Observers to consider it before publication, bearing in mind the special circumstances of a virtual meeting. No objections were raised during the agreed 48-hour timeframe before publication.

I. Introduction

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met via remote participation, from 22 to 25 June 2020 (Kuala Lumpur local time). Per ICANN Board resolution[2] on 8 April 2020, in response to the public health emergency of international concern posed by the global outbreak of COVID-19, ICANN68 was transitioned from an in-person meeting in Kuala Lumpur, Malaysia, to a remote participation-only ICANN meeting.

Seventy six (76) GAC Members and three (3) Observers attended the meeting.

The GAC meeting was conducted as part of the ICANN68 Virtual Policy Forum. All GAC plenary sessions were conducted as open meetings.

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[1] To access previous GAC Advice, whether on the same or other topics, past GAC communiqués are available at:
   https://gac.icann.org/
[2] See resolution at https://www.icann.org/resources/board-material/resolutions-2020-04-08-en

II. Inter-Constituency Activities and Community Engagement

Meeting with the ICANN Board

The GAC met with the ICANN Board and discussed:
- Subsequent Rounds of New gTLDs
- DNS Abuse Mitigation and related issues associated with
  - Privacy/Proxy Services
  - Proactive Anti-Abuse Measures
  - Accuracy of gTLD Registration Data
- Domain Name Registration Directory Service and Data Protection
- Upcoming topics of GAC Interest

ICANN Board responses to the GAC's questions are available in the transcript of the GAC/ICANN Board meeting, appended to this document.

Cross Community Discussions

GAC Members participated in relevant cross-community sessions scheduled as part of ICANN68, including:
- DNS Abuse and Malicious Registrations during COVID-19;
- The DNS and the Internet of Things: Opportunities, Risks and Challenges; and
- ICANN and COVID-19 - Advancing Policy Work in the Current Environment.

III. Internal Matters

1. GAC Membership

There are currently 178 GAC Member States and Territories and 38 Observer Organizations.

2. GAC Working Groups

- **GAC Public Safety Working Group (PSWG)**

The GAC PSWG led two sessions with the GAC on DNS abuse mitigation measures and briefed GAC Members on its ongoing efforts to combat COVID-19 linked fraud and abuse. While it was noted that many Registrars showed a strong willingness to communicate with Public Safety officials during this pandemic, and to review domains referred by them, there were nonetheless concerns

expressed by Law Enforcement at the continued use of Privacy/Proxy services by those seeking to exploit the pandemic (~65% of the domains referred appeared to use such services), and the resulting delays in investigations. The PSWG also highlighted the need for governments, ICANN, and the Community to take a multi-pronged approach to combating DNS abuse, including consumer and business education and awareness raising, and robust enforcement of applicable ICANN contract provisions.

Members of the PSWG also participated in the Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data and the Cross-Community Session on DNS Abuse. Finally, the PSWG held discussions with ICANN's OCTO and SSR teams, the Security and Stability Advisory Committee, the Registry and Registrar Stakeholder Groups, and the Intellectual Property and Business Constituencies of the GNSO.

- **GAC Underserved Regions Working Group (USRWG)**

The GAC Underserved Regions Working Group (USRWG) updated the GAC on future initiatives in response to the COVID-19 situation, to be conducted in collaboration with the ICANN Community and ICANN's Government Engagement and Global Stakeholder Engagement teams.

The GAC USRWG has completed the review of the current GAC Travel Support Rules according to its work plan and will seek GAC input and approval after the ICANN68 Meeting.

- **GAC Universal Acceptance and IDN Working Group (UA-IDN WG)**

The Chair of the GAC Universal Acceptance and IDN Working Group (UA-IDN WG) reported on the group's intersessional activities since ICANN67. Among other activities, UA-IDN WG members have worked to prioritize their 2020 work plan effort to focus on (1) developing a basic introductory information document on Universal Acceptance to be shared with GAC members for their use at the national level; and (2) awareness building among and communications to governments on UA-IDN matters.

The UA-IDN WG Chair shared that the group is closely coordinating with the Universal Acceptance Steering Group (UASG) and the UA Communications Working Group (UA Comms) on communications plans and strategies. This includes the development of UA-related content for use by governments and relevant authorities, and a potential webinar series aimed at informing GAC members and their colleagues about Universal Acceptance developments and initiatives. The UA-IDN WG Chair also noted that the group hopes to seek GAC endorsement of the group's draft Terms of Reference (originally shared prior to ICANN67) shortly after the ICANN68 meeting.

3. GAC Elections

The 2020 election process for GAC Chair and Vice-Chairs will be initiated shortly after the ICANN68 meeting. The initial nomination period will close on 2 September 2020. If needed, a voting process

will be conducted until 20 October 2020, during the ICANN69 meeting, at which time the election results will be announced.

IV.   Issues of Importance to the GAC

1. Subsequent Rounds of New gTLDs

The GAC prioritized consideration of policy issues related to Subsequent Rounds of new gTLDs during ICANN68, notably by devoting three GAC sessions to this topic, reviewing the GAC Scorecard, and by engaging in the GNSO New gTLD Subsequent Procedures PDP Working Group (Sub Pro PDP WG) meeting. The GAC wishes to thank the Sub Pro PDP WG Co-Chairs for their participation in GAC sessions on this topic, and recognizes the extensive and diligent work of the Sub Pro PDP WG to deliver the Final Report.

The GAC considered an update from the Sub Pro PDP WG Co-Chairs on work conducted since ICANN67, in particular consideration by the WG of the intersessional compilation of individual GAC Members input, and the Sub Pro PDP WG timeline. The GAC notes that the draft final report is expected to be posted for public comment in July 2020 for 40 days.

Some GAC members expressed concerns with the use of a standard 40-day public comment proceeding for a topic of high priority to the GAC and the ICANN Community. The Sub Pro PDP WG Co-Chairs noted such concerns while confirming that the final report will be delivered to the GNSO Council at the latest by the end of this calendar year.

The Sub Pro PDP WG Discussed two pending topics during ICANN68 and provided an update to the GAC:
1.   Private Resolutions of String Contentions
2.   Predictability Framework for Next Rounds of New gTLDs

Regarding auctions as a private mechanism to resolve string contentions, some GAC Members expressed concerns, in light of prior GAC positions on the issue, asking why other options are not being further considered by the WG. As to mechanisms to provide for predictability to applicants in future rounds, WG Co-Chairs flagged that the PDP WG recommends establishing a new Predictability Framework along with a new Standing Predictability Implementation Review Team (SPIRT) and noted initial community support of such recommendation. While the GAC appreciates the efforts of the WG to create a Predictability Framework, some GAC members raised doubts on the added-value of a SPIRT, and expressed concerns that its creation, if adopted, could add complexity to the current procedure and potential inconsistency with existing roles and responsibilities according to the ICANN Bylaws. It was proposed that if established, the new mechanism be lean, inclusive and transparent.

GAC Vice-Chairs provided an overview of the following priority topics identified by the GAC during ICANN67:

- Applicant Support
- Closed Generics
- Public Interest Commitments/Global Public Interest
- GAC Early Warnings/GAC Advice
- Community Based Applications

Some GAC members expressed the view that the lack of a formal PDP WG recommendation on the delegation of closed generics would imply that the relevant Board Resolution from the 2012 round would still apply. Additionally, while supporting a new round of new gTLDs in principle, some GAC members recalled the importance of a cost/benefit analysis being conducted prior to the next round.

GAC leaders and topic leads will continue to coordinate intersessional work on the high-interest topics, using the GAC Scorecard as the basis. The agreed next step is to develop GAC consensus input to the public comment period expected in July 2020 on the PDP WG Final Report. Interested GAC Members are encouraged to consult the GAC Scorecard on Subsequent Rounds of New gTLDs and to approach GAC topic leads in order to contribute on any of the relevant policy topics.

2. EPDP on gTLD Registration Data

Need for Evolution of any Proposed SSAD

The GAC small group highlighted the need for any final Phase 2 recommendations to include an effective mechanism for the SSAD to evolve, including in response to future legal guidance. Such evolution should be consistent with the Phase 2 policy recommendations, particularly with regard to the topic of what categories of disclosures may become subject to automated responses.

Legal vs. Natural, Data Accuracy

The GAC would request the Board to obtain an update from the GNSO, as soon as possible, on its progress towards developing a specific plan to continue the policy development process to address the unresolved issues related to distinguishing between natural and legal entities, and ensuring data accuracy. Such future policy efforts should start as soon as possible following the publication of the Phase 2 EPDP Final Recommendations and conclude to the extent practicable 6 months after. Further, the GAC notes that the GAC and other Advisory Committees such as the SSAC and ALAC should participate in any scoping or terms of reference for these future efforts.

The Temporary Specification for gTLD Registration Data specifically recognized that: "*ICANN's mission directly involves facilitation of third party Processing for legitimate and proportionate purposes related to law enforcement, competition, consumer protection, trust, security, stability, resiliency, malicious abuse, sovereignty, and rights protection*". ICANN is required by Section 4.6(e)

of the Bylaws, subject to applicable laws, to "*use commercially reasonable efforts to enforce its policies relating to registration directory services,*" including by working with stakeholders to "*explore structural changes to improve accuracy and access to generic top-level domain registration data*," "*as well as consider[ing] safeguards for protecting such data.*"

Moreover, the Temporary Specification Principles for Processing required that data shall: "*be accurate and, if necessary, kept current, as appropriate to the purposes for which they are Processed ('accuracy')*" (at ¶1.4). This requirement is consistent with Article 5(d) of the EU General Data Protection Regulation. Moreover, Phase 1 of the EPDP recognized that accuracy was expected to be considered in Phase 2 (see Recommendation 4 and accompanying footnote).

This requirement is also consistent with the GAC's advice in its 2017 Abu Dhabi Communiqué which recalled the 2007 GAC Principles Regarding gTLD WHOIS Services recognizing the need for accurate registration data ("*gTLD WHOIS services should provide sufficient and accurate data about domain name registrations and registrants subject to national safeguards for individuals' privacy*").

Hence, data accuracy is called for to facilitate ICANN's mission, for consistency with GDPR, the expectations of the EPDP Phase 1 team, and prior GAC advice.

Data Controllership

The GAC expects more clarity on the status and role of each of the data controllers and processors in the SSAD model. To this end, the GAC urges ICANN org and the Contracted parties to complete the respective Data Protection Agreements between them as soon as possible so that they can be shared in a timely manner and support the IRT in its implementation activities.

Anonymized emails

The use of anonymized email may be a solution to protecting the registrant's identity while serving some of the legitimate domain name registration data access seekers' purposes. We therefore suggest a feasibility/legal study to guide the availability of a publicly accessible anonymized email by the Contracted Parties.

The EPDP team received legal guidance that anonymization as well as pseudonymization is "a useful Privacy Enhancing Technique/privacy by design measure" and noted DPA Guidelines recognizing that this technique may be used under appropriate circumstances.

3. DNS Abuse

The GAC heard presentations on the impact of COVID-19 related DNS Abuse and on efforts of authorities to counter abuse and provide awareness raising materials for consumers and businesses. Presenters noted the efforts of registries and registrars to address DNS Abuse both proactively and reactively, as well as the initiatives by SSAC and ICANN OCTO to support the detection of abuse and collect and share best practices. The GAC commends these efforts, which

have contributed to greater cybersecurity, preventing fraud, preserving public health and safety, and likely protecting lives.

The GAC believes capacity building and training initiatives should be prioritized by ICANN org, in terms of budgetary allocation and scheduling, for countries most affected and where the benefit would be the greatest.

The GAC notes that new efforts to tackle DNS abuse should not replace, but rather complement, existing initiatives to improve accuracy of registration data, such as the Accuracy Reporting System, and to implement policy on privacy and proxy services, which are currently on hold despite having been recommended by a number of review teams and endorsed by previous GAC advice.

The GAC calls on the Board to implement existing advice and on the ICANN community to seize this opportunity and commit to its different work streams on DNS Abuse, aiming for security, safety and the protection of individual and public rights and freedoms.

4. IGO Protections

The GAC received an update that the GNSO Council had adopted a revised charter concerning a focused working group to produce policy recommendations which address concerns raised over IGO access to a curative dispute resolution mechanism and is in the process of selecting a Chair prior to moving ahead with such policy effort.

5. CCWG-Accountability Work Stream 2 Implementation

The GAC Human Rights and International Law Working Group (HRIL WG) Co-Chairs updated the GAC on the current status of CCWG Accountability Work Stream 2 (WS2) Recommendations implementation. The Cross Community Working Party on ICANN and Human Rights (CCWP-HR) presented a sample of the Human Rights Impact Assessment (HRIA) tool intended to help ICANN Supporting Organizations and Advisory Committees (including the GAC) to organize and track implementation of the various WS2 recommendations. The GAC Chair encouraged GAC members to express their interest in either volunteering to participate in cross community efforts or to contribute to specific GAC implementation efforts that impact GAC operations.

GAC Members discussed issues related to the implementation of WS2 recommendations that are of interest to, or directly impact, the GAC. Discussions covered how these issues might be assessed, prioritized and implemented in an effective manner; and noted needs to continue work on the Work Stream 2 topics which cause concerns among some GAC Members.

One GAC member stated the difficulties it currently encounters in accessing to DNS resources in particular during the COVID-19 period. The concern of this GAC member supported by other GAC Members is reflected in the Minutes of the ICANN68 GAC meeting.

V. Follow-up on Previous Advice

The following items reflect matters related to previous consensus advice provided to the Board.

1. EPDP on gTLD Registration Data

In line with its previous advice, the GAC observed the need to maintain WHOIS access to the fullest extent possible and noted that in its San Juan Communiqué it advised the ICANN Board to instruct ICANN org to "*Distinguish between legal and natural persons, allowing for public access to WHOIS data of legal entities, which are not in the remit of the GDPR*".

The GAC reiterates that this advice still stands and should be considered.

VI. Next Meeting

The GAC is scheduled to meet next during the ICANN69 Virtual Annual General Meeting on 17-22 October 2020.

ICANN68 | Virtual Policy Forum - GAC Meeting with the ICANN Board
Wednesday, June 24, 2020 - 16:30 to 17:30 MYT

JULIA CHARVOLEN: Good morning, good afternoon, and good evening, everyone. Welcome to the virtual meeting with the GAC and ICANN Board. We will not do roll call today for the sake of time. Attendance will be noted and available in the annex of the GAC minutes. In case a member does not have the ability to raise hand or see names of panelists, we would advise you to leave the room and join again. If you would like to ask a question or make comment, please type it by starting and ending sentence with question or comment to allow all participants to see your request. Session leaders may not be able to address all comment questions live during the session; however, they will remain part of the permanent session record. Interpretation will be conducted using Zoom and remote simultaneous interpretation platform operated by Congress Rental Network, attendees encouraged to download the application following the instructions in the Zoom room chat or meeting details available on the GAC page. The microphone will be muted unless you get into the queue to speak. If you wish to speak, please raise hand in Zoom room. When called upon, you will be given permission to unmute your microphone. Kindly unmute mic and take the floor. When speaking make sure to mute all other devices including the application. Please state your name and the language if other than English. Please also speak clearly and at a reasonable pace to allow for accurate interpretation. Finally, the session like all other ICANN activities, is governed by the ICANN expected standard of behavior, you will find a link in the chat for your reference. I would like to leave the floor to GAC chair Manal Ismail, Manal, please.

MANAL ISMAIL, GAC CHAIR:	Thank you very much, Julia, and good morning, good afternoon, and evening everyone. I hope you have enjoyed the break. We are now starting the GAC's bilateral with the ICANN Board scheduled for an hour. I would like to welcome all Board members who have joined us from remote and before we start with the agendas allow me first to ask Maarten if you would like to make any opening remark.
MAARTEN BOTTERMAN:	Yes, thank you, Manal, and GAC for having us for this dialogue. Always a useful dialogue to have to better understand where we stand in each other's priority, not a replacement for the formal GAC advice but nevertheless an important part of our better understanding together. I hope your week was good despite the situation which made it to be virtual and made it to be taking place at one time, yet we are all in different time zones. I have admired the agenda the GAC adhered to. Been part of some of the discussions, very good to hear the intensity and deep respect for the level of the engagement that is there. In addition, of course compliments for leadership of GAC that not only attended the session but later in the day updated the session for those hampered by the hour, and I think that stands out and really commended. I wish we had the [indiscernible] let's go to the subject for discussion. Manal, back to you.
MANAL ISMAIL, GAC CHAIR:	Thank you very much, Maarten. And in fact, we wanted to grasp of opportunity to also share with you how the GAC has spoken with its work given the current circumstances and the virtual meetings. I will try to be very selective for the sake of time, we have a long list of questions and we will have further opportunity to discuss this tomorrow during the panel. But I think it was a good opportunity to work on prioritization -- and by good

opportunity, here I'm talking about the remote setup and not the COVID-19 for sure -- and a good opportunity as well to enhance and strengthen the remote participation to GAC meetings.

I have to say, it has increased our inter-sessional work and extended the footprint of our meetings, which on the positive side has streamlined our work but on the other hand increased the workload and the time effort needed by GAC colleagues inter-sessionally.

Again, as you have noticed for the communique, we have a few challenges, lacking the face to face and site talks and small drafting groups and negotiations, but we're coping, and it has been successful. The only change is that we delay the issuance of the communique. This time we agreed for 48 hours for each to review in their own time zone before publishing it on the Web.

Another significant challenge to all is the time zone. And as you mentioned, we're trying to cope with this first with the daily briefs from GAC leadership and second by allowing this 48 hour review for the communique.

Again, I will stop here for the sake of time, but I cannot conclude without thanking ICANN for the excellent support from staff and from IT and from language services. It was very very much appreciated. Everything handled very smoothly. And in specific, responding to the GAC's request to make available the 6 UN languages plus Portuguese for the real time interpretation. I know this was a very difficult setup, but it is very much appreciated. Kavouss, I see your hand is up. Anything quick --

KAVOUSS ARASTEH: Yes, nothing just because it is the only opportunity to see our distinguished Board members, we would like first of all to thank them very much and fully support and echo what you have said about the efforts made by ICANN, ICANN Board and organization and the ICANN staff, Rob, Gulten, and Julia and many others, Fabien and many others supported us during the inter-sessional which has been increased as you mentioned and at this stage I think we are very, very happy and proud to have you, Manal, as the chair of the GAC -- competent, patient, firm and fair. We are very happy to have you and I see your face is very tired, thank you.

MANAL ISMAIL, GAC CHAIR: Thank you, Kavouss, and let's get started with the agenda. So we usually start by a shorter list and then it grows with time. So despite we have only three topics, but we have quite a list of questions. If we can go to the following slide, please. So this is the only topic that doesn't have complete questions so I will go quickly through the text on a new gTLD subsequent procedures. Subsequent procedures for new gTLDs remain a priority for the GAC. The GAC has participated in the GNSO PDP process and the committee provided summaries of its ICANN67 discussions in its ICANN67 GAC communique.

Since ICANN67, the GAC has worked internally to develop particular positions on the high priority GAC topics being addressed in the GNSO PDP process and has heard several of those views in that venue. GAC leadership has also engaged with other communities, particularly the ALAC, so explore areas of common interest, to ensure that all community views are thoroughly vetted during the PDP process. The GAC high priority topics already shared with the Board at ICANN67 include:

Applicant support from participation of underserved regions, closed generics, public interest commitments and global public interest, GAC early warnings and advice, and finally community based applications. The GAC understands that the final report of the GNSO PDP is still being prepared. The committee will use the ICANN68 meeting to further refine its views in order to be prepared to share its views on the final report document when it is published.

The key message here is that it is important that the entire community be given sufficient time to review and respond to the final report of the PDP working group, noting that the decisions in this regard would normally be more convenient when the GAC is in physical or virtual session.

So thank you. I will stop here if there are any comments. If not, we can proceed to the following topic.

MAARTEN BOTTERMAN: Thank you. Clearly noted. The SubPro will be a process that the community gets the time needed -- and we have taken our time already but your remarks below are clear. Thanks.

MANAL ISMAIL, GAC CHAIR: Thank you, Maarten. Can we go to the following slide please? On topic DNS abuse mitigation. And I have to mention the background information on DNS abuse and on PDP was quite long. We have annexed this at the end of the presentation just to spare the time for the questions.

So on privacy proxy services, law enforcement reported during ICANN68 that the majority of domains involved in pandemic-related fraud, phishing, or malware have employed privacy proxy services to hide the identity of the

registrant. So the question is what action can the Board take to reduce the negative impact of privacy proxy services on first the security of the DNS? And second the efficiency of law enforcement investigations of DNS abuse?

MAARTEN BOTTERMAN: On the privacy proxy, Becky, would you want to comment on this?

BECKY BURR: Thank you, thank you, Manal. This is really a very important issue, we understand. Privacy proxy services have been around in some form for quite a long time and the Board since we adopted the [indiscernible] back in 2018, ICANN org and the Board have been thinking about looking at what impact the tamp back in subsequent policy should be on the existing policy and contractual requirements. In particular, the policies regarding privacy and proxy service that providers accreditation issues working group recommended which were adopted by the Board in 2016 and addressed areas including transparency on release and relay, but they didn't explicitly address decisions about how and when the data is going to be released.

So the work of the EPDP in this regard is extremely important, and we have asked the EPDP and the GNSO council, we have been in discussions with them about how and when these will be addressed. We understand that this really is a priority to issue. It hasn't been addressed by the EPDP yet but this week and continuing, EPDP and GNSO council are engaged in discussions about how and when to address the priority 2 issues, including privacy and proxy services, and the Board is watching this very closely because we do understand that access to this data is critically important.

MANAL ISMAIL, GAC CHAIR:	Thank you very much, Becky. And to my GAC colleagues, I think I will go through the whole section of DNS abuse before pausing for any from GAC colleagues. So moving on, again still under DNS abuse but now proactive anti abuse measures: Law enforcement reported during ICANN68 that the majority of domains involved in pandemic related fraud, phishing or malware -- sorry, it's again the same background. Have we changed the slides? We haven't. Can we go to the following slide, please.
	Thank you. So for different anti abuse measures, the CCT review recommended that the ICANN negotiate contractual provisions providing financial incentives for contracted parties to adopt proactive anti abuse measures, this recommendation placed in pending status by the ICANN Board. The GAC notes the recent adoption of a definition of DNS abuse by the registry and registry and registrar stakeholder groups.
	To the questions: Might the ICANN Board update the GAC on steps already taken to facilitate community efforts to develop a definition of abuse? And second, what steps do the ICANN Board and org intend to take to inform further action on this recommendation? And third, what mechanisms are available to ICANN to incentivize proactive anti abuse measures such as validation of registrant information by registrars? And I do apologize for taking the three one shot. I understand they may be addressed by a different Board member so please feel free to do so.
MAARTEN BOTTERMAN:	Thank you for that. We do note and appreciate the recent adoption of the definition of the DNS abuse by the contracted party how is that the [indiscernible] framework documents without by a selected group of contracted parties prior to ICANN67 already and good to see that definition

aligns with the GAC definition [indiscernible] Beijing communique, subsequently put into the [indiscernible] agreement similar. This this can be a good starting point for discussion but important to know that defining what is DNS abuse does not address the specific problem by the ICANN community and how so over time if I can orchestrate facilitate discussion on this topic over the last years and in 2019 facilitated several regional discussions, including DC, London, and multiple discussions [indiscernible] Bangkok and also with the GAC in ICANN 65, in addition supported community plenary sessions ICANN 66, ICANN 68, discussion various aspects of abuse which is a multi headed animal, and the different perspective of the problem across the community and the discussion continues to evolve, useful data emerging from the contracted parties and law enforcement about the danger and types of abuse.

So [indiscernible] will continue to support the community in this important dialogue facilitating discussions and providing speakers to share data. We have conducting research and [indiscernible] to help inform the discussion in fact for example ICANN org provides tools and reports as to the main abuse activity report and the identifier technology health indicators, ITHI, so data to help.

With regard to incentives for anti abuse measures, whenever thinking about incentives, critical to have a clear understanding of the problem and good sense of desired outcome. Incentives or penalties known for shifting behavior but tend to create unintended consequences, before -- we need community consensus with both definition of the problem and what success criteria would be for a solution. So I hope that helps anybody wants to add to that? Okay. So I hope that helps, Manal.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Maarten. So moving to the following section please under DNS abuse still, regarding accuracy of gTLD registration data and this is the one with extensive background on the issue, as annex slide for this presentation on slide 11, and the question is what does the ICANN Board intend to do to restore ICANN's ability to address gTLD registration data inaccuracies including but not limited to resuming the ARS identity validation phase?

MAARTEN BOTTERMAN: So Chris, would you want to comment?

CHRIS DISSPAIN: Thank you, Maarten. Thank you, Manal. I have read the background slide. Look, we agree that this is a very important topic and obviously belongs in discussion about registration data. It's a critical element. And also important to note that accuracy reporting is only a part of what we're looking at. There are things like verification accuracy standards and mechanisms for updates and [indiscernible] the GNSO is looking at this as a follow-up to EPDP Phase 2, and along with that, there will be next steps for the community.

There are however a few considerations that we should probably take into account in restarting or proceeding with ARS. I've got a list of them here and just very briefly things like many of the fields currently tested for accuracy [indiscernible] might be required -- wouldn't be legal under EPDP, issue of false positives and need to figure out how to deal with that.

There are timing issues, the gaps between the accuracy analysis and when the data, the information gets to compliance a [indiscernible] sometimes the data provided is out of date and finally and perhaps just from a logistics point

of view most importantly since we pause the ARS, the contracts with all three vendors have expired so we would have to develop new contracts either with the existing suppliers or find new ones.

I [indiscernible] there may be questions and happy to take those but in essence that's the sort of overarching response, Manal.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Chris. And I think this concluded the DNS abuse mitigation part. So it's time for any follow-up and questions from my GAC colleagues and I already see Kavouss' hand up, go ahead please, Iran.

IRAN: Thank you very much, Chris, thank you Manal. I think I have mentioned yesterday that under this accuracy of the DNS we should also say this issue as rightly mentioned by Chris is also referred in EPDP but seems to me that now it is some sort of the ping pong, it's in PDP, EPDP says it's mandated [indiscernible] or will be done in Phase III, Chris saying GNSO [indiscernible] clearly mentioned the who and how this will be done, Phase III or different EPDP -- sorry, different policy development process for this issue. So we would like to come back to that at the EPDP topic, we will raise later. So we park the issue and we come back to that. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Kavouss.

CHRIS DISSPAIN: Manal, can I briefly respond, and I suspect Becky has things to say. Kavouss, I completely understand your point and there is a danger of things becoming

bounced around from one process to another but I think the fundamental underlying point is that it is a GNSO matter and whether dealt with in the EPDP or in the GNSO post the EPDP, that is the context in which it needs to be dealt with. But perhaps Becky you could provide a little bit more detail.

BECKY BURR: Yeah, I think everybody agrees that accuracy of registration data is critically important, and it is so clearly within ICANN's wheelhouse and probably one of our more important tools in the tool kit. I think we have talked extensively about accuracy in the context of the EPDP and in particular the provisions of GDPR related to data accuracy and it seems quite clear from the guidance that we have received from outside counsel that accuracy is something that really gets invoked under GDPR by a data subject in order to protect their rights. And so it's becoming increasingly clear the EPDP is probably not the best place to address this.

And I think, again, GNSO council just had a discussion on this, clearly data accuracy is very much on the table, but it seems like that actually should be on a separate track. I will just say for -- based on the many years that I have paid attention to this particular issue, it seems to me that some preparatory work in terms of what is technically feasible out there to be done would be useful in advance of any kind of policy discussions we really do have to get our arms around what tools can be used to improve data accuracy in a reasonable way in this environment.

MAARTEN BOTTERMAN: Just to add, clear this subject goes beyond SubPro alone and that's why this consideration is taking place.

CHRIS DISSPAIN: And it's Chris, just wanted to reinforce what Becky said specifically about accuracy in GDPR and I think the GAC members of the EPDP working group will be able to confirm this to your colleagues. There was a lot of discussion about accuracy in the EPDP with many -- with some suggesting that the accuracy part of EPDP was in fact to the benefit of those looking at the data and abundantly clear that's not the case so as Becky says, it's a different topic that needs to be dealt with elsewhere.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Chris, Becky, and Maarten. I have a question in the chat from Brian Beckham from WIPO but let me read the question. It's from Brian with WIPO. Can any information be shared on data gathering and reporting and related compliance efforts with respect to registry and registrar registration agreement 3.7.7.1 one, which provides data accuracy and .2 which provides termination of registration in terms of violation.

MAARTEN BOTTERMAN: I don't have a specific answer to that question at hand. So unless somebody can raise that, we will come back to that.

MANAL ISMAIL, GAC CHAIR: No worries, Maarten. Yeah, we can definitely note the question and appreciate any later response.

MAARTEN BOTTERMAN: Thanks for the question, Brian.

MANAL ISMAIL, GAC CHAIR:	So two hands up now. One from Pakistan, Raza, please go ahead and Chris afterwards.
PAKISTAN:	Thank you Manal -- are you able to hear me now?
MANAL ISMAIL, GAC CHAIR:	Much better.
PAKISTAN:	Pakistan, for the record. I would like to ask the Board members to [indiscernible] registries, registrars -- and content management [indiscernible] in the future, especially when talking about close cooperation and governments and especially governments which are most affected from such malicious traffic? Thank you.
MANAL ISMAIL, GAC CHAIR:	Thank you, Raza. Any comments from the Board?
MAARTEN BOTTERMAN:	So just to understand the question, what the Board thinks should be done about spam and other hindrances of government interaction? Can you rephrase the question for me?
>>	Pakistan is one of the most affected countries from these malicious activities, especially talking about DNS abuse, so we would like to see how the Board is looking -- do the Board have any focus for these countries which are most affected, government fighting very hard to manage this traffic and how ICANN

Board is looking that could accomplish in the future [indiscernible] which need to work closely with these governments?

MAARTEN BOTTERMAN: Well for sure the GAC is an important advisor in this but also part of the overall approach to deal with what we develop as a [indiscernible] of DNS abuse, I think farming, phishing, malware, bots and spam are all recognized as things that we need to be aware of and need to be tackled but the specific focus of DNS abuse need to be defined, and meanwhile we continue to enforce measures that we have in our contracts and policies. So I think this is under development. But the advice of the GAC is important and taking place as we speak through the discussions this week I think, and we look forward what comes through via the communique. Göran, can you add?

GÖRAN MARBY: To add, we work with governments around the world when it comes to training, capacity building, helping governments to work together with the law enforcement to actually understand how the ecosystem and DNS and DNS abuse works and we also provide tools such as the DAAR system where we have seen country code operators so they can get immediate access to reporting how they're doing in the world of abuse. So just to add to what Maarten said, we have continuous outreach with governments.

But to your other question, we don't have a WHOIS system, divided by 2500 different contracted parties and according to the policies we have the [indiscernible] and regulations around the world, they're the ones who often have a very direct relationship with for instance local law enforcement. So thank you very much.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Maarten and Göran.

GEORGIOS TSELENTIS: Thank you, Manal and everybody. I would like to raise a point on accuracy. We have been vocal as members of the GAC and the EPDP and I have to disagree that it is crystal clear that the accuracy principle refers to the data subject only, actually the [indiscernible] July says we think [reading] consider the interest of persons other than the data subject and the data controller but then they invoke that there is an issue of lack of guidance, and in this sense I think this is a subject that we mean to take into account. We also highlighted that this might cause problems with regards to compliance toward the GDPR and we still believe -- I believe the rest of my colleagues agree to that, that this is an issue that the GAC considers still important to consider, thanks.

MAARTEN BOTTERMAN: Thanks for the question. Chris, can you take this one?

CHRIS DISSPAIN: Yes, Georgios, I appreciate your comment.   That the EU's, European Commission's position? That in fact the accuracy is to be taken to be in the interest of the people -- rather than to protect the registrant? Because that's not my understanding and if that's the case we can move from that, but I thought we had clear guidance to the reverse of that. Could you clarify for me?

GEORGIOS TSELENTIS: It's not a rather, it's at the same time, you can consider the interests of the data subject but also --

CHRIS DISSPAIN: I appreciate the clarification but is that actually the position of the commission?

GEORGIOS TSELENTIS: Yes.

CHRIS DISSPAIN: Thank you very much.

MANAL ISMAIL, GAC CHAIR: Thank you Georgios and Chris. I now have Chris Lewis-Evans from UK and also another member of the EPDP from the GAC side. So Chris please, go ahead.

CHRIS LEWIS-EVANS: Yeah thank you very much, Manal, and Chris Lewis-Evans for the record. I think to be honest Georgios has just said exactly what I wanted to say that our understanding is accuracy can be regarded from two aspects, one from the data subject and other from the controller that must ensure the data they're processing is accurate for their purpose, so just in total agreement with what Georgios has just said. Thank you very much.

MANAL ISMAIL, GAC CHAIR: Thank you Chris and also for being brief for the sake of time we need to move on to the following section on EPDP and meanwhile I can see already a response from Jaime to Brian so just noting this.

So can we move to the following slide please. Domain name registration directory service and data protection issues and again the background was moved to slide 12, and I hope you had the time to go through the background.

First question is how will the ICANN Board ensure that the current reasonable access requirement is effective and enforced by ICANN contractual compliance in the public? Would you like me to go through all the questions or take one by one.

MAARTEN BOTTERMAN: Yes, I think we'll take them all for the sake of time.

MANAL ISMAIL, GAC CHAIR: Fair enough. Second question is how could the ICANN Board support any future system for accessing gTLD registration data to first better serve the interests of the public and second to evolve in timely manner to address future guidance or information available on the applicability of data protection law. Last question, what is the status of the ICANN org [indiscernible] on the need to differentiate between natural and legal entities for the purpose of domain name registration data and when will the results be provided to the EPDP team?

MAARTEN BOTTERMAN: Thank you, may I ask our PDP liaisons Chris and Becky to comment on this?

CHRIS DISSPAIN: Sure. Let's start and see where we get to. This is Chris. ICANN compliance continues to conduct its role of robust enforcement and that is under section [indiscernible] of the temporary specification. We have sought guidance on the 22nd of May from the EPDP on the legitimate interests and the application of the balancing test and it's important to note that since the implementation of the temporary specification, 26 substantiated complaints related to

request for nonpublic registration directory and of those four in registrars and several subsequently provided the data.

In essence the answer to the first question compliance continues to operate in robust manner and within the boundaries of the temporary specification. Becky, do you want to add anything?

BECKY BURR: Sorry, unmuting myself. No, I think that you have covered it. The question of evolution is the significant issue, obviously the bylaws are going to dictate where policy is developed and so to the extent there is policy for example on automation in the EPDP recommendations, one could argue that the policy is quite clear. With respect to that the hard question is in the absence of clear guidance which we do not have, frankly on many aspects of GDPR, who will decide what is commercially and technically feasible and who will decide what is legally permissible? And I think absent clear guidance from that, it is very hard to say that somebody who would not be liable for a violation of GDPR would be in a position to determine whether something -- whether an action by somebody who would be liable is legally permissible.

CHRIS DISSPAIN: Thanks. Manal, if I may I will move on to address the -- I've got some notes here which are very specifically setting out what it is that we have been doing with respect to any future systems, first of all, as it should be obvious, the Board closely following the work of the EPDP and when it completes its work we will review the recommendations to ensure they're aligned with the bylaws, the part Becky was talking to, and [indiscernible] directed to us by the Board but ultimately up to the community what type of model to recommend in the policy recommendations.

So to echo what Becky has just said, without more guidance or legal certainty, the model cannot evolve beyond an SSAD ticketing system and that's even if the [indiscernible] ICANN org recently contacted the European data protection Board to make them aware of the uncertainty that exists around how to perform the balancing test and our original paper on the unified access model was what sought answers to the key questions about how controllership would apply.

As you all know, we got a reply from the Belgian dpa that didn't contain definitive opinions and it was interpreted by some members of the EPDP as a veto from the Belgian dpa to see a centralized org but when Goran met with the dpa, clarified it's to create a comprehensive model and a unified model a more common sense solution -- we are in the hand at the moment to a great extent of the recommendations of the EPDP, goes back to the conversation I was having with Kavouss earlier about this being a community led process and there is only so much that the Board can do.

So the straight answer to the question how can we support any future system is we can make sure that the recommendations received from the community process are aligned with ICANN's bylaws and in the best interests of the community and public interest and we can accept those recommendations if they are and instruct the [indiscernible] to implement them and we can continue to attempt to get clarity from the relevant regulators or governments on the rules GDPR. But that is the extent of what we can do. Becky, anything you want to add to that?

BECKY BURR: No, just to say that I think the community is open to considering something closer to the UAM that ICANN originally sought guidance and assurances on if more actionable guidance was available but in the absence of such guidance, the hybrid model, SSAD which really does not centralize the decision making, it centralizes intake is the policy coming out of the community and that's likely to be the policy that comes before the Board for review and acceptance.

CHRIS DISSPAIN: Okay. And Maarten, I'm not sure who is answering question C, so back to you.

MAARTEN BOTTERMAN: Either of us. I think it's not so much a survey as a study that was recommended by Phase 1 on the risks and [indiscernible] feasibility between legal and natural persons and really for purpose of registration data. We appreciate and understand the interest of the GAC and others on this topic. The study report has been completed as we understand and currently under internal review and will be provided to the EPDP team as soon as possible. Org has sent letters and received information on this topic from some ccTLD registry operators for dot [indiscernible] and dot Finland as we understand one of the priority issues from EPDP Phase 2 and not on the critical path for recommendations [indiscernible] for access and disclosure, and we understand that the current proposal for this issue answers consultation with GNSO council on next steps so I think that's where we are. Anything to add?

CHRIS DISSPAIN: Seems to cover it.

MAARTEN BOTTERMAN: Thanks, Chris. Back to you, Manal.

MANAL ISMAIL, GAC CHAIR: Thanks everyone, Maarten, Chris, Becky and everyone. So I don't think we have any further questions on EPDP, if I'm not mistaken. If we can just to make sure. And meanwhile, I open the floor for my GAC colleagues if there are any follow-ups on what has been said. Any questions, comments? Okay. If not, then in the remaining few minutes just to share with you all what is on our radar for the coming period and upcoming topics that are of GAC interest.

So the global public interest -- and I believe we already flagged this interest at ICANN67. And we understand the Board is continue to go work on its public interest paper and that it will be eventually released.

We also had this discussion, and thanks to Becky and other Board members of the BGIG and we agreed it would be a good topic for one of our upcoming calls with the CEO, so we look forward to this.

On the multi-stakeholder model, we're also following this closely and we know the public comment period is now won't be a deadline on the 2nd of August so this is we're following and we have also on a different but related matter, we have agreed with the GNSO to provide the GAC with a webinar on PDP 3.0.

And auction proceeds, goes without saying as a chartering organization and after the report is now finalized, we need to approve within the given 60 days and again we look forward to the webinars that will be scheduled by the leadership of the auction proceeds.

Finally, the ATRT3 -- and this is of course of special importance to the GAC given the recommendations that are GAC related and the report has been

finalized with a number of recommendations related to the GAC accompanied our attention. We have already spotted a few things that we need to respond to. And finally -- and we note that the deadline is 31st of July. And finally, out of today's discussion, I would also add to the list the workstream 2 recommendations, also something that the GAC will be working on and paying close attention to in the coming periods.

So I will stop here, checking if there are any requests for the floor. I see Kavouss' hand up. Please go ahead.

IRAN: (No audio)

MANAL ISMAIL, GAC CHAIR: We cannot hear you.

IRAN: The box for unmute comes very late that's why I don't know when I'm muted or unmuted. Not criticizing anybody but... The last point raised was very important. Raised by some GAC member and we supported that and in particular referred to the jurisdiction of the workstream 2, of the account ability and recommendation and report and explanation should this course of action face difficulties for implementation, there is a need to look at the alternative way of how to do that. I don't want to go into detail but it's very important. So we will raise the issue because at least we are facing some difficulty in the implementation of some of these recommendation and then that is important and I'm sure the ICANN Board is very familiar with some of the issues that I am referring to, and that is important that if this theory doesn't work we have to go to some pragmatic and practical solutions in

order not to deprive any country or nation or any individual access to the DNS. Thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Kavouss. And just also noting that during the discussion today on workstream 2 we identified three tracks that needs our attention, first the prioritization exercise that we have been discussing among the SO/AC chairs and the CEO, second the recommendation that needs to be implemented by the community and what the GAC can do in that respect -- and finally, recommendations being implemented by ICANN that are of interest to the GAC. So those are the three tracks that we will be following during the coming period.

So we have three minutes remaining. Any final comments from the Board side before we conclude?

MAARTEN BOTTERMAN: Yeah, thanks, Kavouss, as always, noting some of the issues on the table to be dealt with and the Board also very much aware and following this with interest and we also appreciate the attention of the GAC and all the work that has been done that. So this is for sure to be continued. It is on the table -- in I think the English expression, not the American one -- which means we're aware, looking at it.

Overall really appreciated the opportunity for interaction and also noting that Jaime [indiscernible] has been able to respond to the questions that Brian asked earlier in the chat. So for those that are curious for the answer, it's there.

Also under upcoming topics, very much recognized as important and valid and we look forward further interaction with the GAC and also again on behalf of Becky who is our co-chair for BGIG together with Manal, to continue that work together in better understanding each other and ensuring the process is [indiscernible] is exactly right and I continue to appreciate that as well.

And Manal, I saw some praise for you as Chair. For sure it's good to have you as a colleague on the Board and a pleasure to spend time with you on these kinds of occasions every time again.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Maarten and everyone. Kavouss, is this a new hand? We have only one minute remaining.

IRAN: In one minute, don't worry, Manal. Once again, Maarten and all distinguished Board members, the relation between the GAC and Board has been considerably improved and continues to be improving. We appreciate very much and commend the way you are tackling the situation and we continue to rely on your wisdom, your vigilance and impartial, neutral position taken with respect to protection and preservations of the community interests and public interest. We appreciate very much your efforts and efforts of all ICANN organizations and not forgetting Goran and his staff working very hard, particularly during the virus COVID-19. Thank you for everything, and please be sure Manal is one of the good members of the Board that you have, thank you.

MANAL ISMAIL, GAC CHAIR: Thank you very much, Kavouss. I cannot but echo what Kavouss said and we are very happy with how things are developing between the GAC and the Board.

So -- and I do apologize for hands up from non-GAC members, this is a GAC session, so we are prioritizing hands up from the GAC. So I sincerely apologize for those who are not GAC members.

With this, thank you again very much to all Board members who joined us today and to my GAC colleagues for this interactive discussion. And to community members who joined us in the GAC Zoom room.

To GAC colleagues, the GAC leadership will make themselves available from 1600-1630 UTC for those challenged by the time zone and would like to catch up on any sessions they missed. And we will be starting tomorrow at 1000 Kuala Lumpur time, 200 UTC, to continue with our communique drafting. Thanks again everyone, have a good rest of the day and the meeting is adjourned.

MAARTEN BOTTERMAN: Thank you very much.

[END OF TRANSCRIPT]