

TO: GNSO Council

FROM: Jeffrey J. Neuman, GNSO Liaison to GAC



RE: 2021 GNSO Liaison to GAC Report

DATE: October 16, 2021

Background

The GNSO Liaison to the GAC (the Liaison) role was established in 2014 to improve communications between the GNSO and the GAC, and to encourage early engagement by the GAC in policy development processes and other GNSO activities.

When the role first began, shortly after the launch of the new gTLD program, GAC members rarely participated in GNSO activities and restricted itself to the provision of Advice directly to the ICANN Board. The problem with that approach was that such advice came either very late in the policy development process or after a Policy Development Process (PDP) had completed. This resulted not only in a substantial delay of the ICANN Board consideration of the GNSO policy, but also placed the ICANN Board in a position of being the arbiter between GAC Advice and GNSO policy development. This was especially unfortunate when these issues could have been resolved earlier if the GAC had made its concerns known earlier to the GNSO or if the GAC were able to participate directly in the PDP itself. Although GAC members prior to 2014 did occasionally participate in policy development processes (PDPs), many GAC members believed that PDPs were too cumbersome to follow and too difficult to actively participate.

GAC Participation in PDPs since 2016:

Over the past several years, communication between the GAC and the GNSO has improved dramatically through both: (a) increased participation in GNSO PDPs and (b) the GNSO Council Liaison to the GAC. The first PDP to actively encourage GAC participation in, and even leadership of, a PDP Working Group, was the Subsequent Procedures PDP. Not only did the Co-Chairs of the SubPro Working Group participate directly in updating GAC members in more than a dozen meetings, but they invited the GAC appoint one of the leaders of “Work Track 5”, the group tasked within SubPro to evaluate the use of geographic terms at the top level.

After the positive experience in SubPro, GAC members have been invited to participate in every PDP and ePDP over the past few years. In addition, GAC members have actively participated in each of the ePDPs dealing with Registration Data, and more recently in the IDN ePDP.

The GNSO Liaison to the GAC:

Originally created on a pilot basis, the role of the Liaison is now a permanent fixture on the GNSO Council. Though originally conceived as a passive role, the role of the Liaison has evolved into one relied upon by GAC members to ensure that the GAC is made aware of all GNSO activities, answer questions about GNSO processes and activities, and to ensure early engagement by the GAC in PDPs.

As the role has evolved, we have made a number of improvements to improve communication between the GNSO and the GAC including:

- a. The Liaison and the GAC Point of Contact (PoC) now meet on a monthly basis. During this monthly meeting, which generally occurs the week after a GNSO Council meeting, the Liaison and the PoC have a standard set of agenda items which cover: (i) recent GNSO developments, (ii) recent GAC developments, (iii) updates about the current PDPs, (iv) potential future PDPs or other GNSO activities, and (v) planning for subsequent GNSO/GAC bilateral meetings. Notes are taken at these monthly meetings by the GAC policy support staff.
- b. As part of these monthly meetings, the Liaison and the PoC develop draft agendas for GNSO/GAC bilateral meetings (which occur during ICANN meetings). These draft agendas are forwarded to both the GNSO and GAC leadership teams. Approximately a month before ICANN meetings, the Liaison and PoC arrange a meeting between the GNSO and GAC leadership teams to finalize the agenda for the full bilateral meetings. The point of these meetings is NOT to discuss the substance of any of the agenda items, but rather to determine which topics are appropriate for bilateral discussions. In fact, during these leadership sessions, more often than not, the list of topics is narrowed to ensure that our 60-90 minutes together at ICANN sessions can be productive.
- c. One additional practice that we are trying to regularly conduct is the distribution of talking points approximately 1 week prior to the GAC/GNSO bilateral meetings using the finalized agenda's list of topics. For both ICANN 70 and 71, the PoC sent the Liaison GAC talking points prior to the bilateral sessions. The GNSO is trying to reciprocate but given the wide diversity of views within the GNSO and its SGs and Cs, developing agreed upon talking points tends to merely reflect a recap of actions taken by the GNSO as opposed to forward looking position statements.
- d. Shortly after ICANN meetings, the Liaison is tasked with coordinating the GNSO response to the GAC Communique. Although there were some initial coordination issues after ICANN 70 resulting in untimely delivery of the GNSO response, this was improved for ICANN 71 and should be better for the annual meeting. However, members of the GAC have informally reported to me that the GNSO responses have not been very substantive or helpful. This is because the GNSO Council has limited itself in its responses to merely restating what (if anything) the GNSO Council has previously done with respect to the overall topics included in the communique. This information, however, is not usually responsive to the GAC Advice and often presents information that is already known by the GAC and the Board. The GNSO Council also generally does not respond to any other in the communique other than formal GAC Advice.
- e. The Liaison also regularly participates in all GAC meetings held at ICANN involving GNSO-related issues. Participation has also evolved over the past year to include not just observing these meetings, but the Liaison is also given the opportunity to request the floor at any time to address any questions posed by GAC members or to make any comments to

clarify GNSO positions (where such positions exist). In addition, the Liaison regularly provides comments through the zoom chat feature when requesting the floor does not seem appropriate.

Future Recommendations:

1. I personally believe the GNSO needs to be more responsive to the GAC, especially with respect to providing substantive feedback. If there are questions asked by the GAC to the GNSO, the GNSO Council must respond to those questions. Recently, the GNSO Council has not done a great job in being substantively responsive. For example, in the ICANN 71 communique, the GAC asked whether the GNSO would support the GAC's position on a tracking tool for Review Team recommendations. It also asked whether the GNSO Council would be willing to participate in an intersessional meeting on DNS Abuse so that the Council could elaborate on what it has done with the topics from the CCT-RT recommendations which the Board referred back to the GNSO. To date, the GNSO Council has not responded to either of those requests. If the Communique response is not the appropriate mechanism to respond to GAC requests, then the Council should provide an alternative mechanism. But not responding at all, should not be an option, in my opinion.
2. GAC-GNSO Council meetings need to be more interactive. Though the GAC has assigned topic leads for each Bi-lateral meeting agenda item (who may or may not be in the GAC leadership team), the GNSO Council has relied almost exclusively on the GNSO Chair and Vice Chairs to essentially do all of the talking. This puts an unfair burden on GNSO Council leadership to get up to speed on every agenda item. Those who are clearly the experts (e.g., Council Liaisons to the PDPs) really should service as topic leads on behalf of the GNSO. This relieves the burden from Council Leadership and can lead to more participation from different Council members.
3. Too often in bilateral meetings we focus on where the GAC and GNSO differ. We rarely, if ever, focus on areas where there may be agreement. And if there are areas of agreement, we should be willing to state as much "on the record" and to the ICANN Board.
4. In line with Recommendation 1, the GNSO should consider providing more substantive responses to the Communique to give the ICANN Board an indication of where the GNSO stands on any issues for which the GAC addresses to the Board. This includes more than just on formal GAC Advice, and involves more than a simple restatement of what the GNSO Council may have done in the form of a resolution in the past. For example, at ICANN 71, the GAC Advised the ICANN Board to extend the moratorium on the reservation of IGO acronyms at the top level until such time that the curative rights ePDP has completed its work. Yes, the GNSO Council pointed out that it had past approved a resolution back in 2014/2015 that approved a policy to remove the reservation of such acronyms. However, simply making that restatement doesn't let the ICANN Board know how the GNSO Council feels about extending the moratorium. As such, it provided no guidance to the ICANN Board on what the Board should do. It is possible that the GNSO Council did not care, but it never even discussed the issue. **I recommend that the GNSO Council address ALL elements of the GAC Communique that involve GNSO matters.**

Addressing those items is essential to assist the ICANN Board in making its decisions on GAC Advice on matters in which the GNSO is responsible.

5. The GNSO should provide its own policy reports / talking points to the GAC prior to ICANN Meetings. It is clear that ICANN staff draft policy briefings for the GAC on GNSO activities. Although there have been some improvements in the accuracy of the information presented to the GAC, the messaging in those briefings are not always in line with GNSO views. The accuracy of the information is important, but so is how that information is presented. In reviewing the policy briefings (which are posted AFTER ICANN Meetings), it is clear that how such information is presented is important. However, ICANN staff is required to present information in what it believes is an objective manner. But context for GNSO actions can be just as important (if not more so) than a resolution that was passed or if action is not taken.

Thank you for the opportunity to serve this past year as the GNSO Liaison to the GAC, and I look forward to another exciting year in the role.