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Governmental Advisory Committee

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Governmental Advisory Committee Comments Regarding Proposed ATRT3 Recommendations

Introduction

The ICANN Governmental Advisory Committee (GAC) welcomes the opportunity to provide comments on the proposed recommendations of ICANN's Third Accountability and Transparency Review Team (ATRT3) published on 16 December 2019 (see – https://www.icann.org/public-comments/atrt3-draft-report-2019-12-16-en).

The "Third Accountability and Transparency Review Team (ATRT3) Draft Report for Public Comment - December 2019" (https://www.icann.org/en/system/files/files/draft-report-atrt3-16dec19-en.pdf)(hereinafter ATRT3 Draft Report) is a substantive and comprehensive document that addresses a number of important issues. These comments focus specifically on the seven (7) proposed draft recommendations the ATRT3 has suggested with respect to the GAC. If an opportunity is presented after the Final Report is published, the GAC may choose to address other matters.

The GAC appreciates the time and attention that the ATRT3 has devoted to (1) studying the GAC implementation of previous ATRT2 recommendations, (2) assessing the present state of the committee's operations and interactions with other communities and (3) the effort the review team has made to offer useful and practical suggestions to further improve the GAC and its work within the ICANN multistakeholder community. In particular, the GAC welcomes the assessment of the ATRT3 that "one should recognize the significant improvements that have been made by the GAC since the ATRT2 recommendations were made." (see ATRT3 Draft Report at page 52).

Specific Proposal Recommendations

This GAC feedback is provided in a bulleted format designed for ease of reference to each of the seven (7) suggestions that the ATRT3 proposes in its Draft Report.

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General Comment:

The GAC appreciates the acknowledgement of the ATRT3 that "the recommendations ICANN makes for the GAC via such processes as the ATRT reviews may have limited applicability or may have to be adapted to fit into the GAC context." (see ATRT3 Draft Report at page 48). Whatever the substance or form of the final ATRT3 recommendation, the GAC will be mindful of that cautious overall acknowledgement, and asks that the ATRT3, if possible, clarify the meaning of the remark in the Final Report.

Suggestion #1 for GAC

ATRT3/GAC Recommendation - 4.4.1.1. – Carry-on from ATRT2 Recommendation - Considering whether and how to open GAC conference calls to other stakeholders to observe and participate, as appropriate. This could possibly be accomplished through the participation of liaisons from other ACs and SOs to the GAC, once that mechanism has been agreed upon and implemented

1. ATRT3 suggests that the GAC publish a short list of suggested qualities or requirements for liaisons to assist SO/ACs to select the best candidates to be GAC liaisons.

The GAC welcomes this proposed suggestion. The liaison (or "point-of-contact" as it is typically called within the GAC) function is an important role not only for GAC members to take to other communities, but for other communities to utilize in outreach to the GAC.

Beginning at ICANN63 in Barcelona, the GAC established a new working group to focus on developing improvements to help update and amend its present operating principles. One of the areas identified in chartering that working work was the role and functions of GAC liaison. The GAC will utilize the new working group to develop criteria that will improve the clarity and specificity of the liaison/point of contact roles.

The work of the individuals presently assigned by other communities to serve as liaisons "to" the GAC has offered very useful insights and opportunities for learning for the GAC leadership. The GAC can use the examples of those experiences to help fashion guidelines for future liaison and point-of-contact appointments.

Suggestion #2 for GAC

ATRT3/GAC Recommendation - 4.4.1.2. Carry-on from ATRT2 Recommendation - Considering whether and how to open GAC conference calls to other stakeholders to observe and participate, as appropriate.

2.   ATRT3 suggests that the GAC, in conjunction with ICANN, should provide orientation for liaisons to the GAC so they understand the environment of the GAC as well as the expectations for liaisons.

The GAC welcomes this proposed suggestion. The liaison function is an important role not only for GAC members to take to other communities, but for other communities to utilize in outreach to the GAC. The GAC has recent experience in developing onboarding resources for first-time GAC meeting participants and will consider utilizing that expertise to provide orientation to new liaisons.

Suggestion #3 for GAC

ATRT3/GAC Recommendation 4.4.2. Carry-on from ATRT2

3.   ATRT3 suggests that the GAC continue to commit to its improvement efforts focusing on ensuring early engagement with relevant SOs and ACs on matters of importance to the GAC.

In its Recommendation 6.1.H, the ATRT2 recommended that when deliberating on matters affecting particular entities, to the extent reasonable and practical, the GAC give those entities the opportunity to present to the GAC as a whole prior to its deliberations. The GAC is pleased to see that the ATRT3 has determined that the overall implementation and effectiveness of this recommendation are currently deemed to be satisfactory (see ATRT3 Draft Report at page 52).

The GAC welcomes the proposed suggestion that it continue to commit to its efforts in this area. The committee will continue its collaborative outreach with other ICANN communities impacted by its advice both during ICANN public meetings and intersessionally, when appropriate. Suggestions from other communities how this might be done or improved upon will be most welcomed.

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Suggestion #4 for GAC

ATRT3/GAC Recommendation 4.4.3. Carry-on From ATRT2

4.   ATRT3 suggests that the GAC continue with improvements in this area.

The ATRT2 recommended (see ATRT2 Recommendation 6.6) that the Board work jointly with the GAC, through the BGRI working group, to identify and implement initiatives that can remove barriers for participation, including language barriers, and improve understanding of the ICANN model and access to relevant ICANN information for GAC members. The recommendation stated that the BGRI working group should consider how the GAC can improve its procedures to ensure a more efficient, transparent and inclusive decision-making and that the BGRI working group should develop GAC engagement best practices for its members that could include issues such as: conflict of interest; transparency and accountability; adequate domestic resource commitments; routine consultation with local Domain Name System (DNS) stakeholder and interest groups; and an expectation that positions taken within the GAC reflect the fully coordinated domestic government position and are consistent with existing relevant national and international laws.

The GAC is pleased that the ATRT3 recognized that "significant improvements that have been made by the GAC since the ATRT2 recommendations were made." (see Draft Final Report at page 52). The GAC agrees with the ATRT3 that "this type of recommendation implies more of a continuous improvement process rather than a single outcome", and despite being difficult to fully implement looks forward to continuing its active work and regular meetings with Board members in the context of the BGRI (now renamed as the Board/GAC Interaction Group – "BGIG") to publicize existing improvements and identify new ones in the months and years to come.

Suggestion #5 for GAC

ATRT3/GAC Recommendation 4.4.4. - Should GAC accountability be improved?

5.   ATRT3 suggests that the GAC, in addition to suggestions 4.4.1.1 and 4.4.3, pursue its continuous improvement efforts and focus on making the GAC communique clearer. This would facilitate the community's ability to take in GAC advice and properly consider it in the context of any relevant ongoing work.

The GAC welcomes this suggestion from the ATRT3 and notes that more details on this suggestion in the Final Report would help clarify the expectations in this area.

The GAC partnered with Board members late last year (in the context of the BGIG) to discuss improvements to the order and timing of Board responses to formal GAC advice (the Board "Scorecard") in the hope of providing a more regularized process for the GAC to evaluate the Board responses to that advice. That improved process already features a back-and-forth clarification procedure that enables the Board to confirm its understanding of GAC Communique

advice to help it in evaluating the specifics of Communique text. This ATRT3 suggestion offers insights for limiting or potentially eliminating the need for clarification questions entirely.

Over the last several ICANN public meetings, the GAC has evolved its Communiqué drafting process to improve the effectiveness and efficiency of GAC member advice deliberations during each public meeting. These improvements have had the effect of putting more focus on discussions surrounding Communique drafting efforts and have led to adding a "rationale" section to accompany certain GAC advice to help improve understanding by providing background and context on particular advice topics (see, e.g., the GAC Montreal Communique at pages 8 and 9.. The ATRT3 suggestion regarding further improvements to the clarity of the Communique content is something that the GAC Leadership will explore closely with the hope that the Final Report will provide more clarity on this recommendation.

Suggestion #6 for GAC

ATRT3/GAC Recommendation 4.4.5. - Survey Question: Are you satisfied with the interactions the GAC has with the Board?

6. ATRT3 suggests that the GAC and the Board develop joint messaging about the current state of their interactions and the mechanisms which support these.

The GAC acknowledges this suggestion, and requests that it be clarified. The joint face to face meetings of the Board and GAC and gatherings of the Board-GAC Interaction Group are all open, public, recorded and transcribed. The GAC Communique production effort, clarification process with the Board and ultimate scorecard response from the Board are all public. GAC advice status is regularly tracked and reported on both the GAC and ICANN.org web sites. Also, this ATRT review process in itself provides substantial notice to the community about improvements over the last couple of years with respect to GAC-Board interactions. In using the term "messaging", does this ATRT3 suggestion contemplate expectations about certain reporting mechanisms or resources that need to be developed? More details on this suggestion in the Final Report would help clarify the expectations in this area.

Suggestion #7 for GAC

ATRT3/GAC Recommendation 4.4.6. - Survey Question: In your view are you satisfied with the interactions the GAC has with the SO/ACs?

7.   ATRT3 suggests that the GAC, considering the success of the current mechanisms that are in place for interacting with the Board, work with the GNSO to implement similar mechanisms to facilitate interactions between the GAC and the GNSO.

The GAC welcomes the ATRT3 assessment that the current GAC and Board mechanisms for interactions are deemed a "success". Noting that they take place in a somewhat different context,

the GAC will explore how those Board interaction mechanisms could inform and facilitate further interactions with the GNSO – and even potentially other communities. The leaders of the GAC and GNSO currently work to have at least one intersessional call between the two groups and community members currently interact on topics of similar interest in a number of cross-community environments. There may be mechanisms that can improve those interactions.

Closing

Overall, the suggestion being proposed in the ATRT3 Draft Report seem both practical and reasonable. The GAC will look forward to the reactions to them by others in the community.

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