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## **GAC Input into the CCWG-Accountability Public Comment Period on its 3<sup>rd</sup> Draft Proposal of 30 November 2015**

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The GAC recognizes the important efforts of the CCWG members and participants and has preliminarily considered the recommendations contained in the CCWG-Accountability 3<sup>rd</sup> Draft Proposal, but is not in a position to give an indication of its position as a Chartering Organisation at this stage.

The GAC intends to finalise its formal position on all 12 recommendations between 7 and 22 January 2016 in accordance with the current published timeline, taking into account submissions made during the public comment period and possible further development of the recommendations in the final proposal.

For the time being, the GAC has focused on three areas of particular interest for public policy, and provides the following comments at this stage, without prejudice to submissions by individual member countries made by the end of the public comment period of 21<sup>st</sup> of December 2015:

### **Establishing an empowered community for enforcing community powers (RECOMMENDATION 1)**

The GAC anticipates that it intends to participate in the proposed community mechanism with the following qualifications.

The GAC would focus on participation in the processes of engagement and escalation detailed in Recommendation 2 with a view to supporting dialogue and mutual understanding that would lead to resolution of disputes rather than escalation.

GAC participation would be primarily guided by a careful and prudent analysis of whether the issue under consideration has public policy and/or legal implications. The GAC's participation at the enforcement stage as appropriate is still under discussion.

### **Changing aspects of ICANN's Mission. Commitments and Core Values (RECOMMENDATION 5)**

The GAC notes that legal advice is being sought by the CCWG to clarify the practical effect of this Recommendation, and believes this is appropriate. The GAC expects that any changes will not reduce the current role of the GAC in

providing advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues (as provided in the current ByLaws). This includes issues such as consumer protection, the respect for fundamental rights and freedoms and law enforcement.

The GAC further expects that changes to ICANN's mission and core values should not constrain the Board from accepting and implementing GAC advice. In addition, ICANN's ability to enforce contractual obligations and act upon the public policy advice of the GAC should not be inadvertently impacted.

## **Board obligations with regard to Governmental Advisory Committee advice (Stress Test 18) (RECOMMENDATION 11)**

There is no consensus within the GAC so far to support or object to the text contained in Recommendation 11 of the 3rd Draft Proposal.

GOVERNMENTAL ADVISORY COMMITTEE

21 December 2015