

GAC VIEWS ON THE DRAFT RECOMMENDATIONS OF THE 3RD DRAFT PROPOSAL OF THE CCWG-ACCOUNTABILITY

25 January 2016

Status of this Document

- The GAC notes that, as there is to date no final proposal of the CCWG Accountability ready for consultation and adoption, it is not possible for the GAC as a chartering organization to develop a final view on such a proposal at this stage.
- The views of the GAC expressed below are therefore based on the draft Recommendations as they are contained in the third draft report of the CCWG dated 30 November 2015. To the extent that the Recommendations will be modified in a final report of the CCWG, the GAC will need to consult among its membership in order to provide its final views as a chartering organization.

Summary of Views

- The GAC either supports, or supports with comments, the Recommendations in the 3rd Draft Proposal, with the exceptions of Recommendations 1, 2 and 6, which remain under discussion within the GAC such that no formal or final positions can be shared at this time, and Recommendation 11, for which the GAC has not been able to reach a consensus on a formal position.

General Comments

- With regard to process, the GAC acknowledges the hard work, dedication and expertise of the Co-Chairs and volunteers that have been brought to bear on this issue across the community throughout the CCWG process.
- The GAC notes that, after completion of the final report of the CCWG, work needs to continue with regard to the implementation of the final Recommendations and with regard to Work Stream 2. The GAC is committed to remaining engaged with whatever processes will be put in place.

Recommendations 1 and 2:

Establishing an empowered community for enforcing community powers

Empowering the community through consensus: engage, escalate, enforce

- The GAC recalls its input to the CCWG of 12 September 2015 on the GAC's involvement in the Community Mechanism and its input to the CCWG of 21 December 2015 on establishing an empowered community for enforcing community powers.
- The GAC indicates that specific matters related to Recommendations 1 and 2 remain under discussion within the GAC, such that no formal or final positions can be shared at this time.

Recommendation 3: Redefining Bylaws as 'Standard' and 'Fundamental'

- The GAC supports this recommendation.

Recommendation 4: Ensuring community engagement in ICANN decision-making: Seven new Community Powers

- The GAC supports this recommendation.

Recommendation 5: Changing aspects of ICANN's Mission, Commitments and Core Values

- The GAC supports this Recommendation with comments.
- The GAC notes that this issue is subject to further consideration by the CCWG.
- The GAC expects that any changes in ICANN's Mission, Commitments and Core Values will not have the effect, intended or unintended, of reducing the current role of the GAC in providing advice on the activities of ICANN as they relate to the 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).
- The GAC further expects that changes to ICANN's mission and core values will not have the effect, intended or unintended, of constraining the Board from accepting and implementing GAC advice.
- In addition, ICANN's ability to enforce contractual obligations and act upon the advice of the GAC shall not be inadvertently impacted. An example of this would be if Public Interest Commitments for new gTLDs were precluded in future.

Recommendation 6: Reaffirming ICANN's commitment to respect internationally recognized human rights as it carries out its mission

- The GAC has not yet reached a consensus on this Recommendation which itself is still under discussion in the CCWG.
- The GAC is closely following the ongoing discussions in the CCWG. It notes that there seems to be an emerging consensus in the CCWG on supporting an interim bylaw on ICANN's commitment to respect internationally recognized human rights that would not come into force until a framework of interpretation is developed and agreed by the community as part of Work Stream 2. The GAC will consider whether to join any such consensus following further discussion in the CCWG and within the GAC.

Recommendation 7: Strengthening ICANN's Independent Review Process

- The GAC supports this Recommendation.

Recommendation 8: Improving ICANN's Request for Reconsideration Process

- The GAC supports this Recommendation.

Recommendation 9: Incorporating the Affirmation of Commitments (AoC) in ICANN's Bylaws

- The GAC supports this Recommendation.

Recommendation 10: Enhancing the accountability of Supporting Organisations and Advisory Committees

- The GAC supports this Recommendation with comments.
- The GAC suggests that it is made clear that, in the implementation of this recommendation, the proposed reviews of the accountability of SOs and ACs shall occur in consultation and cooperation with the SO/AC under review.
- In this context, the GAC underlines that its members are representatives of governments of sovereign states that are accountable to their citizens.

Recommendation 11: Board obligations with regard to Governmental Advisory Committee advice (Stress Test 18)

- There is no consensus within the GAC to adopt a formal position on this Recommendation.

Recommendation 12: Committing to further accountability work in Work Stream 2

- The GAC supports this Recommendation.
- A clear timeframe should be established for finalization of issues that are agreed to be within Work Stream 2.