SAN JUAN – GAC Discussion on Operating Principles
Thursday, March 15, 2018 – 09:30 to 10:15 AST
ICANN61 | San Juan, Puerto Rico

MANAL ISMAIL: Thank you, everyone. We are now starting GAC session 34 scheduled at 9:30 for 45 minutes on Thursday, March 15th. So, the session is on the GAC operating principles. As you may know, the GAC operating principles dates back to 2011 I think. We did two minor amendments to the operating principles, one in 2015 to allow for five vice chairs. We used to have only three. The second minor amendment was in 2017 to allow for the electronic voting.

So, now we found it needed to have a more holistic approach to update the operating principles and this is the discussion we will be having during the session. With this, may I had it over to you, Rob?

[ROB]: Thank you very much. That was an excellent introduction. The purposes for today's session is to follow-up on conversations that we all had in Abu Dhabi at ICANN 60. What I hope to accomplish in this session today is to provide you all with background and update just generally about the operating principles. Manal has touched on it at a high level, but to give

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you a sense as to where things stand. For a number of you who are new to acquaint you with the details of the activity. To share some recommendations that we took out of the various comments that were received in Abu Dhabi, and since then through discussions with the GAC leadership and then to obtain direction and some comfort in terms of the next steps that we would propose to take that we hope you would be supportive of.

With respect to background, Manal has talked about the history of the operating principles themselves. On this slide, if you focus on the last three bullets, it's really what's been happening recently. It was a year ago that a new structure was proposed. That was through Tom and his team as they looked more broadly at the operating principles. And preliminary mapping was conducted by ICANN GAC support staff around the midpoint of last year. Then, of course, we had the detailed discussions in Abu Dhabi last November.

The challenge or the opportunity that we see on the next set of bullets on the next slide is that we're looking at 54 principles that have been outlined over time from various perspectives of the work that you do. But, it's nothing more than a list.

With recent changes, the major focus has been tactical, not strategic. And when you look at a situation where you just have a running list of different operating principles, you can't see or

identify the gaps that exist where things might be missing or where things aren't completely filled in. I think this happened prior to my arrival in support of your efforts.

There was a recognition that you would come upon a certain set of circumstances or situations and find yourself frankly going, "Gee, we don't have a principle in place. We don't have a process." While that has worked very well in the past, that has created a major degree of discomfort for many of you in terms of some clarity of process and where you want to go with things.

So, particularly in the new ICANN environment – we'll go to the next slide – the challenge is what do you do when this new empowered community environment with ICANN 3.0? What are some of the steps that have to be taken as a committee participating? And where there are new responsibilities with respect to responding to ICANN budgets or reacting to different activities that take place at ICANN that require you to have processes in place either to field petitions for rejection of budgets or understand how to appoint members of advisory committees or independent reviews. There simply are no principles at the moment. And the general tenor that you have all shared and certainly that the leadership has felt is that it's important to develop those.

Now, one of the challenges of course is that with all of the urgent ongoing topics and issues that you're dealing with, something like this which is important but not urgent always seems to come last, and the approach that we're trying to take is with many of you coming on board who are new to ICANN or certainly new to the GAC, what can we do to establish some more clarity there? Can we set up a plan or a strategic approach with respect to the operating principles where you can begin to address these things in some organizational bites so you don't have to tackle them all at once.

So, if we go to the next slide, I'd like to show you just some examples of the work that's been done to date. The new structure concept that I flagged on an earlier slide essentially proposes to work on a system that reflects very ordered headings and categories for the different processes and principles that you have in place, fairly standard for any of you who have worked for another organization in terms of laying out what it means to be a member. How does the work get conducted? What are the leadership responsibilities and accountabilities? On through the working groups, advice to the ICANN board, how do you interact with other communities. All of these are identified somewhere in the operating principles, but not all of them and not all with the specificity that you might like.

On the next slide, I'm not asking you to read it, but just showing you an example of the mapping effort where you see on the far side of the screen to my right just the list layout that currently exists. And if you look more at the right side of the screen, you begin to see section numbers and breaking things down into subheadings and the rest. That work has been done on a preliminary basis and you'll hear that we're proposing to reissue that work on having a defined document for you all to look at from that perspective.

On the next slide, I want to flag for you just some general areas where we have identified gaps that are probably higher on the priority list than you might expect with other issues. In the new empowered community environment, ICANN 3.0, there is no language with respect to outreach, transparency, confidentiality and privacy, specifics with respect to what does member participation look like or what are the expectations for you as representatives of your individual countries, territories, or observing organizations. There are no specific delineation of the vice chair duties or expectations, very little guidance to working group chairs. For those of you who volunteer to be topic leads, there's no real specificity in terms of what the expectations are for you.

As has been told to me, one of the challenges that you have when you don't have that specificity is that there's not clarity in

terms of what the expectations are in terms of reporting, in terms of regularly providing updates to the community. What can you expect as a GAC member, as a GAC representative, from those people who are holding those areas of responsibility? It's important for you to know that, and as leaders have expressed to us, it's important for them to know what their obligations are to you.

With the respect to other communities, the other SOs and ACs, I think you've seen over time that the committee has done a very good job of liaising with those other groups, but some of their expressions have been how do we interact? Should we get together on a more regular basis? What are the roles of the liaison functions that we're trying to put together?

I think the overall tone that I've heard, too, is not a desire to become very super specific, if I can use that term, but also to get a little more clarity because many of the operating principles right now are very flexible and they're somewhere in between, a balance between flexibility and clarity that I hope you'll all achieve somewhere down the road. We can go to the next slide. Thank you.

Now, the agreement in Abu Dhabi as we came out of that discussion were fairly basic. In Abu Dhabi, we confirmed the need and the desire for further work. There was clearly that

recognition. We had limited input with respect to the potential parameters regarding the scope and timing. Did you want to get it done by next year? Is it fine that this is just a constant, ongoing, and never-ending improvement situation or do you want to time bound this a little bit?

Fundamentally, what the discussions in Abu Dhabi confirmed was the need for us to discuss some of these options and ideas about further work and that's what I'm bringing to you today.

So, in terms of preliminary recommendations with respect to the scope – and I'll talk about the approach in a moment, but for scope, there clearly is a need for a comprehensive approach to the work effort so that you understand where you want to be. Again, that could take a year or two years or three years, but an understanding about where you want to be. As I note, the effort can be addressed in stages. You don't have to eat the whole cake immediately. You can do it bite by bite picking different layers or aspects of it.

What's very important that's clearly a cultural aspect of your work is that there be active volunteer participation by members and representatives, if not in basic conversations about it in terms of reacting to documents or recommendations provided by the leadership or by staff.

In terms of the approach, as we've looked at this, clearly a volunteer effort is one of the best ways to go about it. But, what we need to do in conversations with you in some form of feedback is determine the level of interest that you have. Do you want this to be a taskforce? Do you want a new committee formed by the chair? Is this something that can take place within leadership, where leadership comes back and just confirms to all of you that they're moving in the right direction and where you all can just simply come together at an ICANN public meeting like this one, review recommendations, have the conversation, we go back and fix something, and we've got a new part of the new operating principles in place. These are areas that we're interested in getting feedback but we think that looking at the big picture and approaching it in stages is probably the best way from a work planning perspective for you to take. Next slide, please.

So, what are the next steps or how might we approach this going forward? The first is to assess and process any feedback we get from you today, any further feedback either from those of you here face-to-face in San Juan or from your colleagues who are not here over the course of the next two or three weeks next month or so.

What we're proposing to do is reissue the mapping document where you will clearly see what is already the structure. Again,

we're not proposing to change any of the operating principles tomorrow, but simply to present you with a new set of documentation that identifies everything lodged in the different categories I showed, membership, working groups, elections, those types of things.

With that, we will be able to flag for you the gap areas, so that you can then assess, "Gee, is this a problem that we don't have language about confidentiality? Should we be focusing on elections first?" Basically, letting you look at the state of the situation and be able to give us feedback so that we can make recommendations to you for priority work, so that we say between now and ICANN 63 we want to accomplish changes or modifications to certain sections of the operating principles and we'll get to others by next year or something like that. Again, a real prioritization effort.

Clearly, I'm interested as we share these materials here over the course of the next six weeks or so, that you all have the opportunity to express your interest in participating, whether you want to act as an advisor an active participant in some sort of group. That's the initial short term.

Then, underneath the blue line, we're essentially then looking at coming to you by ICANN 62 to talk about the prioritization, to

really be able to have an understanding and agreement from the GAC membership as to the order and approach to things.

I'm also hoping to get your feedback with respect to the scope of the work. When I talk about that, one of the things that came up in Abu Dhabi was do we want to focus on operational and functional issues? Are there areas that you want to avoid? Fundamental issues of membership eligibility I understand in the past has been an area of some discussions, if not controversy. So, staying away from, at least initially, some of those more difficult issues or avoiding them altogether is probably a good approach as you're just trying to address some gaps in operations or functions.

Then, at ICANN 62, also to present to you a very specific plan and the complete time table in terms of recommendations that you can react to and potentially adjust in terms of your approach.

So, those are what we see as some of the next steps. What I'd like to do on the next slide, please, is suggest to you that one of the areas that we could begin some initial work – and this was the subject of some discussion among the GAC leadership earlier this week – is to begin to do essentially a test case or a first effort at this.

One of the areas that is ripe for this type of conversation and for recommendations is the area of working groups. Right now, in

the operating principles, the topic of working groups is very broad. It basically recognizes that the chair at his or her discretion can create a working group. It doesn't really say do those become permanent groups, how do you set up the terms of reference, what do you do in terms of selecting the chair or co-chairs? What should the leadership look like? What should the liaison work look like? And as important as it is to start a working group, how do you close one if you recognize that the charter has been fulfilled? So, that's an area that we think would be of great value where the current leadership currently has experience and where quite frankly we have an ideal test case with respect to the excellent work that the Public Safety Working Group has been doing. There's also the potential to look at another very active working group like the Underserved Regions Working Group where there's been a lot of really good examples of a working group that is successful, active, and perceived to be fulfilling its mission.

So, that's our recommendation in terms of some early work that we may be able to show you by Panama City that demonstrates the process or the steps that we might be able to take. It would also give you an opportunity to evaluate some recommendations in Panama City and then say, "Yes, this is good and we've learned some lessons about how we might approach the rest of the operating principles."

On the next slide, I just lay out a couple of things with respect to some questions that I'm interested in getting your feedback on today. With respect to just general areas about whether you think this is a useful approach to the work, the GAC leadership can share some of their perspectives in terms of the operations. I'm just generally interested in getting your perspective with respect to reactions, whether you think this is a useful approach, whether you think you would like us to revisit that.

At that point, Manal, that's my overall briefing and I'm very interested in reactions to our approach and what we might look at for next steps. Thank you.

MANAL ISMAIL: Thank you, Rob, for the excellent presentation and for setting the scene now for a good discussion on what's next. First of all, I would like to know whether there are GAC colleagues who are interested to join this exercise or should leadership, with the help of support staff of course, be coming back to you with the progress. In other words, should we create a task force again or a working group or we take this exercise as GAC leadership and try to progress and get back to you?

Let me be guided by the questions on the screen. What areas would you like to see covered in the GAC operating principles that are not covered now? Which is a good question and links to

the gaps that Rob mentioned earlier. What level of details are you interested in exploring, fundamental versus operational versus details? And what is the best vehicle for this effort? Is it a task force, working group, commission staff effort, etc.?

So, yeah, I believe basically those are the three important questions that would guide our work intersessionally between now and Panama until we meet again and discuss the topic.

I have to say we started with a working group. We then agreed to stop this working group because at the end, the operating principles have to be approved in a plenary by the whole GAC membership. Again, it seems a little bit difficult to have all the GAC members working on this. In other words, it's difficult to leave it to the meetings to progress, so we need to do something intersessionally and that's why we're asking now whether we need to have a task force or we can do this work intersessionally, the leadership with ICANN staff and then get back to you.

I believe, in terms of substance, as Rob mentioned also, maybe we need to agree on the structure, the titles that need to be in the GAC operating principles, and then we agree on the approach or prioritize what we need to start with first.

Again, despite the fact that this is a holistic approach and we will be looking into the whole operating principles, I think we will be

dividing our work so that we can start with certain areas and then take them one by one, so we need to prioritize this.

One area that the leadership team was discussing and we thought it directly relates to the operating principles were the working groups. I have to say that, given question number two, for example, I think we need to keep the operating principles at a high level and leave the details for the terms of reference, for example, if we take the working groups as an example. But, those are all suggestion subject to GAC membership agreement. US, please?

UNIDENTIFIED FEMALE: Thanks, chair. I think what we've all realized from the past experience with this is that this is actually a pretty … Well, it's a huge undertaking as reflected in what happened with the last working group. I think we all recognize how important it is, but it's just a question of how we wrap our arms around it and figure out a way forward.

It's one of those things that require everyone's participation, yet we have so much work to do at the same time. I wonder … There was a recommendation in some of your comments that perhaps the leadership team could come up with a proposed approach and we could go from there to kind of set the structure for how we move forward, whether that be tackling it through a working

group or a task group or the GAC as a whole. I think perhaps just providing us a little bit more concrete guidance will help us go down the right path and be able to proceed most effectively.

Other than that, I'm not sure I'm even prepared to comment on specifics because it is such a huge undertaking. It's often hard to figure out where to even begin. Thanks.

MANAL ISMAIL: Yes. Thank you, US. This is just to brainstorm. We're not ready, as you mentioned, to take decisions here. We're just trying to get a blessing on how to kickstart this exercise again and then just to move things forward. CTU, please. Nigel?

NIGEL CASSIMIRE: Thank you. Nigel Cassimire, CTU. As you mentioned, there was a working group before, which to my recollection, didn't make speedy progress. It could've been related to I guess what we often call bandwidth, whether the people could've done that particular work in conjunction with their day job.

My suggestion would be that the leadership and the staff basically make proposals which they bring periodically to the GAC membership and basically get feedback. Okay, we'll go ahead and so on. That way, I think a little more resource could be put to the task, while making periodic checks with the

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community … Well, with the GAC from time to time to make sure no one has a great objection or whatever.

One of the things that I think made it difficult for the last working group to make progress was because there were sessions in the GAC room where people tried to basically create text for individual principles and that was painful and tedious, essentially.

One [inaudible] would make is that for each particular principle, we first agree what the principle is about and what the thinking is before you get into any language development so that everyone would agree, and that should be an easier process than wordsmithing. Everyone would agree that, okay, the principle is A, B, or C. That basically would be my suggestions, [inaudible] leadership work with the staff to make periodic proposals in terms of going forward.

MANAL ISMAIL: Thank you, CTU. Very helpful suggestions. Now, so far what I'm hearing is that maybe the GAC leadership with the help of the staff can try to put, lay out the whole structure with the identified gaps and then maybe try to bulletize what's going to be under each heading, to take blessing from the GAC before getting into wordsmithing and the drafting of the articles itself.

Maybe then when we start drafting, we will also prioritize how we are going to approach where to start exactly. As soon as we start the drafting, maybe we can get back to GAC colleagues who may be interested in reviewing certain articles or participating to the drafting of those articles. I see [Mr. Morris], please?

UNIDENTIFIED MALE: Thank you, madam chair, and good morning, everyone. This is [inaudible] from Taiwan for the record. Thank you for the [inaudible] comprehension presentation in the [inaudible] distinguished colleagues opinion and discussion. From the discussion, [inaudible] understand the necessity and the gap in [inaudible] we know we have a lot of work to do.

I want to echo the previous US and [Nigeria] proposed in the [inaudible]. I think we support the leadership [inaudible] some proposal for us to decide the duration.

I have one suggestion. Usually, for this topic, we usually didn't know the detail and content until this face-to-face meeting [inaudible] in the ICANN [inaudible] similar presentation, but we didn't see anything until this meeting. So, my first suggestion is for the leadership have any progress or any decision, it's better for them, for the leadership, to post the information through the mailing list to get all the members. Then, we know the detail before the ICANN 62 meeting.

The second point is I also think anyway we need someone to do something. So, the task force [inaudible] be necessary in the future. So, if the leadership team in the [inaudible] decide to [inaudible] task force or working group, Taiwan, we will be very happy to join this discussion [inaudible]. Thank you.

MANAL ISMAIL: Thank you, [Mr. Morris]. Very helpful suggestions as well. I have Trinidad and Tobago, then France. Trinidad and Tobago, please.

KAREL DOUGLAS: Thank you, Manal. Karel Douglas for Trinidad and Tobago. Yes, I just want to agree with the other contributions. To my mind, this is a draft in exercise. In that sense, if the leadership do take it upon themselves to do this exercise, then my one concern would be that they have the expertise, and from what I'm hearing from Rob, I do feel sufficiently confident to believe that is the case.

I say that simply because, as an attorney at law, I understand how important drafting is. A drafts person, whoever is doing it, has to understand of course the principles and the very same problems that you will encounter to avoid those problems of interpretation, implementation, etc., it has to be drafted.

So a) I have no difficulty if the executive, if the leadership, do that and they are sufficiently advised with the persons who are

familiar with that so that you do have a solid draft. And of course, at the same time, since I do have some legal background, I'll be very happy to assist, just like my colleague from Taiwan who did offer in same or similar capacity. Because, at the end of the day, you want someone to bounce things off, so we have a looksie to ensure that it's a good solid production. Thank you.

MANAL ISMAIL: Thank you, Trinidad and Tobago. France, please?

UNIDENTIFIED MALE: Thank you, Manal, and good morning to all the colleagues. I think it's a very, very important issue even though it might not be a very famous or exciting policy issue per se. It's internal matters, but it's extremely important because if we don't have operating principles that are clear and efficient and up-to-date, basically we cannot do our work properly and we can't make it effective, so it's extremely important and I would like to thank Rob again for the very exhaustive and detailed presentation.

I'll also agree with the previous speaker. We had a working group before and sometimes it can look like such a huge mountain that basically you think you're never going to manage to climb to the top. Can you go back to the previous slide? I think

what you're suggesting, Manal, is very important. I think as a leadership group we should come up before the next meeting or for the next meeting basically with structure and a plan and approach on how to tackle this, adopt it. But, then, for each part of this slide, for each area of work, it cannot be just one leader or the leadership team that does everything. I think we should try to get volunteers that might be interested in each of the big parts, so either membership or, as suggested by Rob, working groups might be a good area where to start because we got some feedback during this meeting from some GAC members who thought maybe we can refine these principles because, basically, we don't have a lot of principles working groups. We have just one, if I'm correct, which is a chair can create one.

When you realize how much working groups are important, you [inaudible] for instance, we really need to make it clear how it works and with clear procedures in place to manage the working groups.

So, my suggestion would be, yes, we come … For the next meeting, the leadership come with a structure, a strategy, a plan. But, then, if GAC members are interested, please come to us and tell us, "I'm interested to work in working groups," or I'm interested to work in elections, for example. Then, we will have [inaudible] leads who would work intersessionally and propose a new draft principles. I think working intersessionally is very

important, because otherwise, as it was said by Taiwan I think, we're never going to deliver if we just wait for each meeting to meet and to draft. It's never going to go forward. That's my take on that. ThanK YOU.

MANAL ISMAIL: Thank you, France. US?

UNIDENTIFIED FEMALE: I think these all sound like fine ideas. I'm going to state something kind of obvious and it should apply to everything we do, but it seems like what we really need are strong, committed leaders in the process. I'm not sure how you ensure that, but I think we all have very strong work loads and having a strong commitment to kind of see through as I think my colleague from France just said, probably not the most glamorous work issues but are very important at the same time.

I would just encourage those of us who do volunteer that we have it with a level of commitment, just not from ourselves, but even from our leadership within our governments to actually dedicate quite a bit of time and resources to this because it's hard to explain. I've got to spend time working on the working procedures of the GAC as a priority. It is, but like you said, it's not

as striking as some of the policy issues we're working on. Anyway, just a comment more than anything.

MANAL ISMAIL: Thank you, US. Any further comments or suggestions? Rob, please.

[ROB]:   Can you take us to slide seven? I'd like to show you the wisdom. I know I said earlier you can't read it, so I apologize for that. But, for those of you who can squint.

The previous work that Tom's colleagues and Olaf Nordling did I think is instructive in terms of the approach here and the wisdom of breaking things into categories.

If you look at the right side of the screen, you'll see the proposal to create a meetings heading. So, someone who is interested in thinking about this looks at a meetings heading, they go, "Well, what are important aspects of a meeting? Oh, there's agenda development." You'll see, for example, on this one, there are one, two, three, four principles that have something to do with the agenda. Some of these, let's face it, are fairly basic. Principle 12 says a proposed agenda should be communicated to members prior to the meeting. Okay, you would think that that

would be fairly straightforward and everyone would agree on that.

Then, you get into issues, a process that says, well, how far prior to the meeting? What's the appropriate notice provisions? How does that work out?

So, I think that the brilliance of the approach to say let's map the principles to the functions gives you a little bit better sense that you don't have to go serially through 54 different principles, but you can focus your work. And I think, based on your suggestions, the leadership will come back with recommendations of "We're going to do this section first. We're going to do section 7 first, section 8 first," and then you can all react and say, "No, no, no. We really need to focus on another part of the operating principles structure."

Then, just if I may, one other observation. The good news here, even though it's like climbing a mountain, is that this is really an improvements exercise. There is no immediate emergency. You are all working quite effectively together. It's really an effort to help the committee move forward, as [Gillan] said, in much more of an improved status, but there's no … The metaphor I like is there's no hole in the boat right now, so it's a matter of something that can be progressed over time. Thank you.

MANAL ISMAIL: Thank you, Rob. As you rightly described at the beginning as well, it's very important but not urgent. Any other comments? If not, then the GAC leadership with the help of support staff will take this task intersessionally so that we can come back with [inaudible] structure for the operating principles and proposed plan or work approach so that we can get the blessing and kick start the whole exercise.

Thank you for the discussion. This concludes the GAC session on operating principles. We'll be reconvening at half past ten. Australia, please?

UNIDENTIFIED FEMALE: Thank you, chair. I just had a quick question about the communique. I don't think I have seen it yet, unless I missed it. I was just wondering about the status of that, whether it's being published or where it's at. Thank you.

MANAL ISMAIL: Thank you. It was not circulated yet. It will be very shortly. Apologies for the delay. If there are no other requests for the floor, then enjoy the coffee break and please be back at 10:30. Thank you.

[END OF TRANSCRIPTION]