
.AMAZON Update

Session 5.2 - Dot Amazon Update

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Session Objectives

During this session the GAC will be updated on the latest developments regarding the .AMAZON applications, hear views expressed by interested country representatives and discuss potential language for the GAC Communique.

Introduction

The .AMAZON applications have been of substantial interest to the GAC for several years and has been the subject of GAC advice. This brief is intended to provide a high-level overview of the developments on this issue since the ICANN64 Kobe Meeting - followed by links to the extensive correspondence and developments that have taken place among various parties since that meeting and leading up to the 15 May ICANN Board decision directing the ICANN org President and CEO, or his designee(s), to continue processing of the .AMAZON applications according to the policies and procedures of the New gTLD Program.¹

¹ An extensive background briefing of this topic was shared in the .AMAZON briefing provided for the ICANN64 Kobe meeting and can be reviewed here - https://gac.icann.org/briefing-materials/public/icann64-gac-briefing-.amazon-version2.pdf?language_id=1

Background

Initial Applications -

As part of the new gTLD program, the Amazon corporation applied for .AMAZON and two Internationalized Domain Name (IDN) versions of the word 'Amazon' ("the .AMAZON applications"). In response to the .AMAZON applications, the governments of Brazil and Peru, with the endorsement of Bolivia, Ecuador and Guyana, submitted an Early Warning through the GAC, in accordance with the Applicant Guidebook, in which the concerned governments stated that: "[g]ranting exclusive rights to this specific gTLD to a private company would prevent the use of this domain for the purposes of public interest related to the protection, promotion and awareness raising on issues related to the Amazon biome. It would also hinder the possibility of use of this domain to congregate web pages related to the population inhabiting that geographical region." (see Early Warning, available at

<https://gacweb.icann.org/display/gacweb/GAC+Early+Warnings?preview=/27131927/27197938/Amazon-BR-PE-58086.pdf>

Application Reactions -

After indicating in the ICANN46-Beijing Communiqué (April 2013) that the .AMAZON Applications required further GAC consideration (see <https://gac.icann.org/contentMigrated/icann46-beijing-communication>), the GAC provided consensus advice (GAC Advice) to the ICANN Board in the ICANN47-Durban Communiqué (18 July 2013) that the Amazon Applications “should not proceed” (see - <https://gac.icann.org/contentMigrated/icann47-durban-communication>

On 14 May 2014, the Board (acting through the New gTLD Program Committee) accepted the GAC Advice and directed ICANN not to proceed with the Amazon Applications. (Resolution 2014.05.14.NG03, available at ICANN64 GAC Briefing - .AMAZON Page 1 of 9 <https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-05-14-en#2.b>.)

Independent Review Process -

In October 2015, the Amazon corporation submitted a proposal to the Amazon Cooperation Treaty Organization/Organização do Tratado de Cooperação Amazônica (ACTO/OTCA) member states in an attempt, in the proponent’s own words, “to develop and implement a mutually acceptable solution to the challenging issue of geographic names” for the .AMAZON TLDs. ACTO Member States considered that the dispute had come to an end following the Board’s decision of 2014, and that they were bound not to consider the October 2015 proposal. Subsequently, the Amazon corporation began an Independent Review Process (IRP) in March 2016.

On 11 July 2017, the IRP Panel issued its [Final Declaration](#), which stated that the NGPC acted in a manner inconsistent with the ICANN Bylaws because “the NGPC failed in its duty to independently evaluate and determine whether valid and merits-based public policy interests existed supporting

the GAC's consensus advice"; the Panel recommended the ICANN Board re-evaluate the .AMAZON applications.²

IRP Aftermath -

On 29 October 2017, following the outcome of the IRP, the Board asked the GAC if "it has: (i) any information to provide to the Board as it relates to the "merits-based public policy reasons," regarding the GAC's advice that the Amazon applications should not proceed; or (ii) any other new or additional information to provide to the Board regarding the GAC's advice that the Amazon applications should not proceed" (Resolution 2017.10.29.02 - <https://www.icann.org/resources/board-material/resolutions-2017-10-29-en#2.a>).

In October 2017, at ICANN60 in Abu Dhabi, the GAC expressed in its ICANN60 GAC Communiqué the need to find a mutually acceptable solution in the case of the .amazon gTLD applications for the countries affected and for the Amazon corporation (see <https://gac.icann.org/contentMigrated/icann60-abu-dhabi-communique>).

On 4 February 2018, the ICANN Board accepted this [advice](#) and tasked the ICANN org with supporting the Amazon corporation and ACTO/OTCA member states in negotiating a solution.

During ICANN60 meeting in Abu Dhabi, the Amazon corporation presented to the GAC and ACTO/OTCA member states a new proposal for a "practical compromise". In February 2018, based on further negotiations facilitated by the ICANN org, the Amazon corporation submitted a further updated proposal.

On 4 February 2018, the ICANN Board accepted this [advice](#) and tasked the ICANN org with supporting the Amazon corporation and ACTO/OTCA member states in negotiating a solution.

On 15 March 2018, the GAC [responded](#) to the October 29, 2017 Board request for information "regarding the GAC's advice that the Amazon applications should not proceed" by referring to the expressed "...need to find a mutually acceptable solution in the case of the .amazon gTLD applications for the countries affected and for the Amazon corporation", as well as to "the final transcript of the relevant sessions where these issues were discussed" at ICANN 63 in Abu Dhabi.

On 5 September 2018, following review of the proposal by the ACTO/OTCA Working Group, at a meeting of the Amazon Cooperation Council, the ACTO/OTCA member states issued a statement declaring that "...[t]he Amazon countries have concluded that the proposal does not constitute an adequate basis to safeguard their immanent rights relating to the delegation of the '.amazon' TLD."

On 16 September 2018, the ICANN Board approved resolutions 2018.09.16.12 and 2018.09.16.13 that directed the ICANN President and CEO to: "support the development of a solution for delegation of the strings represented in the .AMAZON applications that includes sharing the use of those top-level domains with the ACTO member states to support the cultural heritage of the countries in the Amazonian region"; and "if possible, to provide a proposal to the Board, on the .AMAZON applications to allow the Board to take a decision on the delegation of the strings represented in the .AMAZON applications." The Board explained in its rationale to the resolutions

² See .AMAZON IRP Final Declaration:

<https://www.icann.org/en/system/files/files/irp-amazon-final-declaration-11jul17-en.pdf>

that it was taking action to: “further the possibility of delegation of the .AMAZON applications as contemplated in the declaration of the IRP Panel, while recognizing the public policy issues raised through GAC advice on these applications.”

The Board further stated its intention that the work “could result in a solution that would allow the .AMAZON applications to move forward in a manner that would align with GAC advice and inputs on this topic.”

In its ICANN63 Barcelona Communiqué (see <https://gac.icann.org/contentMigrated/icann63-barcelona-communication>), the GAC acknowledged the 16 September 2018 Board resolution. The GAC noted that the rationale of the resolution stated that “[t]he Board is taking this action today to further the possibility of delegation of the .AMAZON 10 applications ... while recognizing the public policy issues raised through GAC advice on these applications”. The GAC recalled its Abu Dhabi advice on the matter where “[t]he GAC recognizes the need to find a mutually acceptable solution’ for the Amazon countries and for the applicant and calls upon the Board to continue facilitating work that could result in such a solution.”

The [pre-meeting Briefing](#) for the ICANN64 Kobe meeting includes three pages of detailed developments of activities between the Barcelona and Kobe meeting.

Recent Developments

On 10 March 2019, during the ICANN64 meeting in Kobe, Japan, the ICANN Board adopted a resolution regarding the .AMAZON applications in which it provided the Amazon Cooperation Treaty Organization (ACTO) and the Amazon corporation the opportunity "to engage in a last effort that allows both parties over the next four (4) weeks to work in good faith toward a mutually acceptable solution regarding the .AMAZON Applications, and if one is reached, to inform the Board of that solution by 7 April 2019."

That 10 March 2019 Board resolution also provided the option for an extension of the four week period to give the two parties an opportunity to mutually agree on such an extension. However, without a joint request for an extension, the Board requested the Amazon corporation's proposal be received by 21 April 2019.

On 11 March 2019, the ICANN org President and CEO sent a letter to the GAC stating that the 10 March 2019 Board resolution marked the end of the facilitation process by the ICANN org President and CEO, a process which was advised by the GAC in its Abu Dhabi Communiqué.

As of April 7, 2019, no solution regarding the applications and no joint request for more time had been submitted to ICANN.

On 17 April 2019, the Amazon corporation submitted a proposal for Public Interest Commitments (PICs) related to the .AMAZON applications.

On 23 April 2019, in response to the Amazon corporation's modified proposal of 17 April 2019, ACTO sent its own proposal for PIC language and noted several concerns with the Amazon

corporation proposal. Specifically, ACTO stated that "the [Amazon] company's proposal of April 17 cannot be said to accommodate the principles of shared responsibility and shared governance called for by ACTO members."⁷ ACTO states that the Steering Committee would only be able to make suggestions and would not be subject to the obligations of the PIC. Further, ACTO stated concerns with an "overly restrictive definition of the concept of 'Culture and heritage specific to the Amazon region', which would not even include the names of cities, towns, villages, rivers, culinary dishes, typical ingredients, animals and plants, touristic attractions, and travel-related services, among others."

Also in its 23 April 2019 letter, ACTO provided responses to questions raised by the Amazon corporation regarding international trade law and perceived technical difficulties related to the ACTO member states' proposal.⁸ Finally, ACTO also noted that the AGB provided the ability for the GAC to oppose the .AMAZON applications and that "[t]o ignore [the AGB rules] would disregard the multi-stakeholder model of governance on which ICANN is based and, additionally, its own Bylaws, which expressly recognize 'that governments and public authorities are responsible for public policy.'"⁹

On 7 May 2019, the Brazilian Government wrote to the Board to reiterate ACTO's stance on the .AMAZON applications and also stated that "some misunderstandings about the Amazon countries' proposed solutions may have been conveyed to the ICANN Board" and that these need to be corrected.¹⁰ Specifically, the Brazilian Government provided clarification on the role of the Steering Committee, which "should only have responsibilities over a limited number of issues" and "should allow equal representation of both sides"; the goal of "shared-used", which is "to safeguard the natural and cultural heritage of the Amazon region and its peoples"; and, the "protected terms", which "should only be broadened as to include names that can mislead or cause confusion in the public."

On 8 May 2019, Ambassador Achilles Zaluar shared a copy of his 7 May Letter to Cherine Chalaby with the GAC.

On 15 May 2019, the ICANN Board (see Resolution 2019.05.15.13) Board determined the Amazon corporation proposal of 17 April 2019 to be acceptable, and directed the ICANN org President and CEO, or his designee(s), to continue processing of the .AMAZON applications according to the policies and procedures of the New gTLD Program. This direction included the publication of the Public Interest Commitments (PICs), as proposed by the Amazon corporation, for a 30-day public comment period, as per the established procedures of the New gTLD program.

In making its determination, the Board noted that while it "recognize[d] the need to balance concerns of all those involved, and that it should act fairly and transparently at all times, it is also cognizant of the time that has lapsed since the .AMAZON applications were submitted in 2012, and since the Amazon corporation prevailed in its Independent Review Process against ICANN in July 2017."

The Board said it had "considered the Amazon corporation proposal in light of all that ha[d] come before, including previous GAC advice and the Amazon IRP Final Declaration." The Board also said

it had considered it had “complied with the operative GAC advice on this matter as stated in the November 2017 Abu Dhabi Communiqué, to ‘c]ontinue facilitating negotiations between the Amazon Cooperation Treaty Organization's (ACTO) member states and the Amazon corporation with a view to reaching a mutually acceptable solution to allow for the use of .amazon as a top level domain name.”

Finally, the Board determined, “that the Amazon corporation proposal is not inconsistent with GAC advice and that there is no public policy reason for why the .AMAZON applications should not be allowed to proceed in the New gTLD Program.

On 17 May 2019, GAC Support staff shared information about the 15 May Board resolutions - including the .AMAZON Board decision - with the GAC.

On 15 June 2019, Columbia transmitted to the ICANN Board a reconsideration request for resolutions 2019.05.15.13 thru 2019.05.15.15 that were approved during the ICANN Board meeting held on 15-May-2019. The GAC Chair shared a copy of this transmission with the GAC on 16 June 2019.

GAC Action

During this session the GAC will be updated on the latest developments regarding the .AMAZON applications, hear views expressed by interested country representatives and discuss potential language for the GAC Communiqué.

Key Reference Documents

Pre-Meeting Briefing for the GAC - .AMAZON - Block 2 - GAC Follow-Up on Specific Issues, Session 2.3 .Amazon -

https://gac.icann.org/briefing-materials/public/icann64%20-%20gac%20briefing%20-%20amazon-%20version2.pdf?language_id=1

10 March 2019 ICANN Board resolution (2019.03.10.01) -

<https://www.icann.org/resources/board-material/resolutions-2019-03-10-en#1.a>

11 March 2019 Letter from Goran Marby to the GAC - Notice of 10 March Board Resolution -

<https://www.icann.org/en/system/files/correspondence/marby-to-ismail-11mar19-en.pdf>

8 April 2019 Letter from Cherine Chalaby to Ambassador Alexandra Moreira Lopez - noting 7 April deadline has passed -

<https://www.icann.org/en/system/files/correspondence/chalaby-to-moreira-08apr19-en.pdf>

9 April 2019 Letter from Brian Huseman to Cherine Chalaby -

<https://www.icann.org/en/system/files/correspondence/huseman-to-chalaby-09apr19-en.pdf>

11 April 2019 Letter from Ambassador Alexandra Moreira Lopez to Cherine Chalaby asking Board to postpone any final decision at ICANN65 -

<https://www.icann.org/en/system/files/correspondence/moreira-to-chalaby-11apr19-en.pdf>

15 April 2019 Letter from Cherine Chalaby to Ambassador Lopez regarding adherence to process -

<https://www.icann.org/en/system/files/correspondence/chalaby-to-moreira-15apr19-en.pdf>

17 April 2019 - Amazon submits revised proposal to ICANN Board - requests approval -

<https://www.icann.org/en/system/files/correspondence/huseman-to-chalaby-17apr19-en.pdf>

18 April 2019 - ACTO Letter to Cherine Chalaby and Board, requesting extension of time until 7 June -

<https://www.icann.org/en/system/files/correspondence/moreira-to-chalaby-18apr19-en.pdf>

19 April 2019 - Letter from Brian Huseman to Cherine Chalaby - Amazon opposes extension request -

<https://www.icann.org/en/system/files/correspondence/huseman-to-chalaby-19apr19-en.pdf>

22 April 2019 - University of Essex Letter to ICANN Board regarding rights of indigenous peoples of the Amazon to economically benefit from .AMAZON TLDs. -

<https://www.icann.org/en/system/files/correspondence/van-ho-doyle-to-chalaby-22apr19-en.pdf>

23 April 2019 - Letter from Achilles Zaluar to Cherine Chalaby -

<https://www.icann.org/en/system/files/correspondence/zaluar-to-chalaby-23apr19-en.pdf>

23 April 2019 - Letter from Brian Huseman (Amazon) to Cherine Chalaby - Amazon to ICANN Board -

<https://www.icann.org/en/system/files/correspondence/huseman-to-chalaby-23apr19-en.pdf>

29 April 2019 - (transmission date) Letter from Hartmut Glaser (CGI.bar) to ICANN Board - reiterating views on .AMAZON applications -

<https://www.icann.org/en/system/files/correspondence/glaser-to-chalaby-29apr19-en.pdf>

7 May 2019 - Letter from Achilles Zaluar to Cherine Chalaby -

<https://www.icann.org/en/system/files/correspondence/zaluar-to-chalaby-07may19-en.pdf>

15 May 2019 - ICANN Board Resolution (2019.05.15.13) -

<https://www.icann.org/resources/board-material/resolutions-2019-05-15-en#1.c>

15 June 2019 - Reconsideration request from Colombia Regarding ICANN Board resolutions 2019.05.15.13 thru 2019.05.15.15 on .Amazon -

<https://mm.icann.org/mailman/private/gac/2019-June/017736.html> (document not publicly posted on ICANN.org as of briefing publication - link from private GAC mailing list)

Further Information

.AMAZON pre-meeting briefing provided to the GAC for the ICANN64 Kobe, Japan meeting -

https://gac.icann.org/briefing-materials/public/icann64-gac-briefing-.amazon-version2.pdf?language_id=1

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