ICANN | GAC
Governmental Advisory Committee

81 | ANNUAL GENERAL MEETING

GAC Discussion on New gTLD Program Next Round

Sessions 7 & 8

Contents

Session Objective

GAC Members to discuss matters pertaining to the New gTLD Program: Next Round, to identify issues of concern and thus assess whether language in the Communque and/or GAC advice should be issued at ICANN81 on GAC priority topics.

The **first** session will focus on two briefings by GAC representatives and ICANN org to the GAC, the first one on the Implementation Review Team (IRT) state of play, including recent developments, next steps and Board actions, followed by a briefing on the Applicant Support Program (ASP). This latter session will also include an update on the ICANN Engagement Programme with respect to the ASO.

The **second** session will focus on policy matters including next steps following the Board/GAC Consultation Processes on ICANN77 and ICANN80 Advice on Auctions. GAC members will also discuss potential GAC advice and GAC communiqué language on priority issues pertaining to new gTLDs.

The second session will also allow an opportunity for discussion of other new gTLD issues such as fees and Community Applications.

Leadership Proposal for GAC Action

1. GAC Members to discuss the Applicant Support Program and next steps in preparation for the next round of new gTLDs.

2. GAC Members receive an update on the Implementation Review Team (IRT) in preparation for the next round of new gTLDs, including the timeline.

3. GAC Members to consider any action in response to recent Board decisions/actions on GAC priority topics as outlined in the following documentation:

a. Board follow-up on Board-GAC Bylaws Mandated Consultation Processes on GAC Advice:

– [Follow-up](#)on 3 September 2024 Board-GAC Consultation regarding ICANN77 GAC Advice Item 4.a.i (Auctions) (3 October 2024)

– [Update](#)following Board-GAC Bylaws Consultation on ICANN80 GAC Advice on the New gTLD Applicant Support Program (ASP) (3 October 2024)

b. Board-GAC Bylaws Mandated Consultation Processes on GAC Advice:

– Auctions: Mechanisms of Last Resort/Private Resolutions of Contention Sets in new gTLDs (3 September 2024): [materials](#) including call notes, briefing, recording and slides.

– Applicant Support Program (ASP) (16 September 2024): [materials](#) including call notes, briefing, recording and slides.

c. [Board Action on ICANN80 GAC Advice](#) (29 July 2024), in response to the ICANN80 Kigali Communiqué, which includes responses to GAC advice:

– on Applicant Support Program, and the decision to kick-off a [Board-GAC Consultation process](#) on said advice item.

– Auctions of Last Resort: including the decision to kick off a Community Dialogue on Auctions. To help inform the community, the Board directed ICANN org to manage, moderate, and facilitate the community dialogue and to provide the community with a [framework paper](#) that provides all relevant considerations around the resolution of contention sets. This dialogue took place in August 2024, and the [readout](#) can be found here.

– [Board Action on ICANN79 GAC Advice](#) (5 May 2024), in response to the ICANN79 San Juan Communiqué, which includes responses to GAC advice and follow-up to previous GAC advice on:
– Applicant Support Program (ASP)
– Urgent Requests for Disclosure of Registration Data

d. [ICANN Board Proposed Path Forward for the GAC Consensus Advice in the ICANN80 Kigali GAC Communique](#) (23 July 2024)

e. [October 2023 Board Scorecard: Subsequent Procedures (SubPro PDP)](#) (26 October 2023), intended to facilitate the Board's consideration of the recommendations, affirmations, affirmations with modification, and implementation guidance (collectively Outputs) contained in the "[Final Report on the New gTLD Subsequent Procedures Policy](#)

Development Process" (Final Report) that were listed as in Section D "Pending" in the September 2023 Scorecard: Subsequent Procedures (September 2023 Scorecard).

f. September 2023 Board Scorecard: Subsequent Procedures (SubPro PDP) (10 September 2023), (September Scorecard) which includes Board decisions on pending SubPro PDP WG Recommendations, issued in September. Please note this scorecard does not replace the March 2023 scorecard, but needs to be reviewed in parallel to the March 2023 Scorecard for a full picture on Board actions.

g. March 2023 Board Scorecard: Subsequent Procedures (SubPro PDP) (16 March 2023) (March Scorecard), intended to facilitate the Board's consideration of the recommendations, affirmations, affirmations with modification, and implementation guidance (collectively "Outputs") contained in the Final Report on the New gTLD Subsequent Procedures Policy Development Process (Final Report). The scorecard includes Board decisions on:

– Outputs that the Board adopts;
– Outputs that the Board adopts;
– Outputs that the Board adopts with GNSO Council-Approved clarifications; and
– Recommendations that the Board does not adopt at this time.

Current Status and Recent Developments

On 16 March 2023, the Board resolved to instruct ICANN org to begin the implementation of all Final Report Outputs detailed in Section A of the "Scorecard on Subsequent Procedures PDP" (March Scorecard) and to make available resources required for the successful and timely opening of the next round of new gTLDs. The ICANN Board approved ninety-eight (98) recommendations contained in the Final Report on the New gTLD Subsequent Procedures Policy Development Process, and marked the remaining thirty-eight (38) recommendations as "pending".

The Board further directed ICANN org to deliver a comprehensive implementation plan to the Board no later than 1 August 2023, containing a work plan, relevant information for the Infrastructure Development stream, timelines and anticipated resource requirements to announce the opening of the next round of new gTLDs. ICANN org delivered the implementation plan for opening the next round of applications for new generic top-level domains (gTLDs), and on its resolution approved on 27 July 2023, the Board acknowledged receipt of the plan and directed ICANN org to provide the Board with periodic updates on its progress on program implementation, as well as to continue to prepare information for the Board Finance Committee on periodic requests for implementation funding as implementation work progresses through identified milestones. A status update on the New gTLD Program: Next Round was published by ICANN org on 30 September 2024.

The Board engaged with the GNSO Council on items marked as "pending", and following this interaction the GNSO Council transmitted to the Board the New gTLD Subsequent Procedures Pending Recommendations - GNSO Council Clarifying Statement (Clarifying Statement) on 5

September 2023, developed by the GNSO Council SubPro Small Team to address the Board's concerns on the pending Outputs. The GNSO Council noted the Clarifying Statement should be read as complementary to recommendations as stated in the Final Report and should be considered jointly with the Outputs for the purpose of implementation and operation of the New gTLD Program Next Round.

In September 2023, the ICANN Board published several documents of interest to the GAC pertaining to new gTLDs. Relevant sections of these documents are summarized below for GAC membership ease of reference.

On 10 September 2023, the ICANN Board published the September 2023 Scorecard: Subsequent Procedures PDP, i.e. an updated Board Scorecard on the SubPro PDP WG recommendations marked as "pending" in the Board Resolution on 16 March 2023.

The Board also published on 10 September 2023 the Board Scorecard on ICANN77 GAC Advice, outlining Board decisions following the issuance of GAC advice at ICANN77.

On 21 September 2023, the Board published the Board Scorecard on ICANN77 GAC Issues of Importance, outlining its comments and decisions on the GAC ICANN77 Issues of Importance following the Board-GAC Interaction on this topic.

The Board published on 26 October 2023 the October 2023 Board Scorecard: Subsequent Procedures (SubPro PDP), outlining Board decisions on pending recommendations from the SubPro PDP WG Final Report.

On 11 June 2024 the ICANN Board published the June 2024 Scorecard: Subsequent Procedures Supplemental Recommendations. This June 2024 Scorecard: Subsequent Procedures Supplemental Recommendations (Supplemental Recommendations Scorecard) is intended to facilitate the Board's consideration of the GNSO Council-approved Supplemental Recommendations.

GAC members may wish to review in detail the Board Action on ICANN80 GAC Advice (29 July 2024), in response to the ICANN80 Kigali Communiqué, which includes responses to GAC advice: , to determine whether GAC action should be taken at ICANN81, either through a dialogue with the ICANN Board at the GAC/Board bilateral meeting and/or via the issuance of GAC advice to the Board.

1. **Board Follow-up on GAC-Board Consultation Process on ICANN77 Advice (Auctions)**

A Board-GAC Consultation Call was held on 3 September 2024.

The Board, in its resolution of 6 June 2024, had initiated the Bylaws-mandated Board-GAC Consultation process to find a mutually acceptable solution regarding GAC Advice Item 4.a.i from the GAC ICANN77 Washington, D.C. Communiqué, which advised the Board to:

> *"To take steps to avoid the use of auctions of last resort in contentions between commercial and non-commercial applications; alternative means for the resolution of such contention sets, such as drawing lots, may be explored."*

This advice is directly related to GAC Advice Item 2.a.ii from the [ICANN80 Kigali Communiqué](#), in which the GAC advised the Board to:

> *"To urgently initiate a focused community-wide discussion (including with the GAC and ALAC) on the resolution of contention sets, with a view to finding alternatives to private auctions and ICANN auctions of last resort, before the ICANN Board takes any action in a manner that may be inconsistent with the ICANN77 Washington D.C. Communiqué GAC Consensus Advice."*

This [community-wide discussion](#) was held on 13 and 14 August 2024, and the Board considered the results of that discussion as well as the results of the 3 September 2024 Consultation Call at its workshop in Los Angeles on 6-8 September 2024. As communicated in the [13 September 2024](#) letter to the GNSO Council and the [16 September 2024 blog](#), during the Los Angeles workshop, the Board focused its discussion on how to move forward on three items:

> (1) the extent to which applicants should be able to organize private agreements to resolve contention;

> (2) whether, and if so, how to provide less well-resourced applicants a chance to obtain a desired string if they are in a contention set; and

> (3) whether to rely on ICANN auctions using the ascending-clock second-price methodology to resolve contention or to adopt an alternate methodology such as Vickrey auction, or even a raffle.

Considering the GAC's advice and other diverse input received from across the ICANN Community as well as ICANN's responsibility to act in the global public interest, the Board decided to take a holistic approach to contention resolution in the Next Round. As a result, the Board aligned on a path forward as follows:

1. No private resolution: Private resolution of contention sets will not be permitted during the Next Round. As pointed out in the NERA report, joint ventures constitute a form of private resolution for which "it would be necessary to allow side payments to promote good faith joint ventures". Therefore, to achieve the goal of prohibiting private resolution, the Board will have to reverse its adoption of the SubPro recommendation 20.6.

2. Ability to submit alternate strings: The Board views the ability to submit an alternate string at the time of application as a path to reduce the number of contention sets, providing more applicants with the ability to operate a gTLD. This may be particularly of interest to less-well-resourced applicants who, if in contention, are less likely to prevail in an auction. The Board is aware that the SubPro PDP WG considered string changes after the application window closes but did not include a recommendation to permit this as this would "necessitate a repeat of the string similarity evaluation of all applications, causing delays and disruptions to all applications,

including those that are not in contention. This would impact program timelines and costs." However, allowing applicants to submit alternate strings at the time of application, when it is unknown what strings others are applying for, would address these concerns. The approach of alternate strings provides all applicants, including less well-resourced ones, with an easy and efficient way to help avoid contention. No applicant would be obliged to submit alternate strings or to switch to their alternate as they may choose to remain in contention for their initial string. Also, a switch to an alternate string must not create a new contention set and applicants would not be allowed to join an existing contention set. The Board notes that an alternate string could not be used to escape contention sets that are formed after string similarity review or string confusion objection period, for the above reasons noted by the SubPro PDP WG.

3. Continue to use the 2012 ascending-clock second price auction method: The Board agrees that auctions are a tested and effective method to allocate scarce resources and that introducing a raffle system is not preferable over the auction approach. In this context, the Board refers back to the 2008 Report 'Economic Case for Auctions in New gTLDs'. NERA also noted that "Lotteries, like private auctions could, increased the number of speculators, [and] increased the number of monetary transfers between applicants [...]".

2. Board Follow-up on Board-GAC Consultation Process on ICANN80 GAC Advice (Applicant Support Program)

The GAC and ICANN Board held a Bylaws Mandated Consultation Call on ICANN80 GAC Advice on 16 September 2024. This Bylaws-mandated consultation was to discuss the Board's concerns with implementing GAC Advice on the Applicant Support Program (ASP) in its 17 June 2024 ICANN80 Kigali Communiqué.

As denoted in ICANN Bylaws section 12.2(a)(x), the purpose of the consultation call was for the GAC and Board to "try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution."

In preparation for the GAC and Board Clarification Call on 15 July 2024, the Board shared clarifying questions with the GAC to ensure collective understanding of the GAC's Advice in the Kigali Communiqué as well as the Board's concerns. Following the Clarification Call, the Board sent correspondence to the GAC outlining the proposed path forward and the Board's preliminary decision to take an action that is not consistent with GAC Consensus Advice items 1.a.i and 1.a.ii.

On 29 July 2024, the Board shared its ICANN80 Kigali Communiqué Scorecard on Board Action noting the need for a Board-GAC Bylaws Consultation on GAC Advice item 1.a.i pertaining to the ASP evaluation process, and item 1.a.ii pertaining to the ASP evaluation panel.

On 16 September 2024, the GAC and ICANN Board held a Consultation Call on ICANN80 GAC Advice. During this meeting, the Board presented approaches to address the GAC's concerns with a first-come, first-served ASP evaluation process. The proposed compromise for 1.a.i is:

> The Board will direct ICANN org to share monthly reporting with the ICANN community on the geographic distribution of ASP applications received and qualified. The Board expects that monthly reporting will be available via the Program Statistics on the ASP website and

via updates to the SubPro Implementation Review Team (IRT). The monthly reporting on geographic distribution can inform quarterly adjustments to the ASP Communications, Outreach & Engagement efforts.

In addition, the Board will direct ICANN org to share results of geographic distribution with the IRT after 20 qualified ASP applicants to determine adjustments to Communications, Outreach & Engagement or if additional funding may be needed.

With regard to advice item 1.a.ii, the Board informed the GAC that the Request for Proposal (RFP) process to select an independent third-party evaluator is underway and thus changes would directly impact the launch of the ASP program. More generally, the Board noted that introducing community members to the evaluation panel increases the risk of conflicts of interest and the potential for legal challenges - and therefore the Board is not supportive of such a step. The Board expects that ICANN will continue with its plans to select a vendor with appropriate evaluation skills and diverse experience to conduct a fair and objective assessment of globally diverse ASP applicants.

Based upon the Board's concerns and the subsequent exchanges between the Board and the GAC, the Board plans to indicate its rejection of Advice items 1.a.i and 1.a.ii in favor of the compromise on 1.a.i and the GAC's understanding of how ICANN will approach 1.a.ii.

Following the Consultation Call, the GAC confirmed its support for the proposed path forward as discussed during the Board-GAC Consultation call, and shared a letter with the ICANN Board on 16 October 2024 outlining its understanding.

3. Implementation Review Team (IRT)

The Subsequent Procedures **Implementation Review Team (IRT)** commenced its work in May 2023 and is expected to draft the next applicant guidebook in preparation for the next round of new gTLDs. The GAC appointed a representative and an alternate to participate in the process, provide input to the IRT and report back to the broader committee on areas of importance to the GAC. **GAC members appointed to the IRT are: Canada (Representative) and UK (Alternate)**. ICANN org presented an updated Implementation Plan in September 2024 for the Implementation Review Team's input, including 291 outputs (comprising recommendations, affirmations, affirmations with modification, and implementation guidance) contained in the Final Report on the New gTLD Subsequent Procedure Policy Development Process that were adopted, adopted with GNSO Council-approved clarifications, or acknowledged by the ICANN Board in March, September and October 2023. This version of the Plan also includes the four Supplemental Recommendations that were adopted by the Board in June 2024. It is expected that the AGB will be published no later than December 2025.

ICANN org conducted the first Public Comment proceeding from 1 February - 19 March 2024 and produced a summary report on 2 April 2024. ICANN org also reviewed the comments with the IRT. The GAC did not submit collective input to this proceeding.

At the time of this briefing, the second Public Comment Proceeding was released, closing on 21 October 2024. This is the second in a series of Public Comment proceedings that will seek input from the ICANN community on proposed language for the Applicant Guidebook (AGB) for the New gTLD Program: Next Round. Specifically, ICANN org is looking for input from the community on whether the proposed language is consistent with the relevant outputs from the Final Report on the New gTLD Subsequent Procedures Policy Development Process. It should be noted that the proposed language has been developed in collaboration with the [Subsequent Procedures Implementation Review Team](#).

Specifically, ICANN org has published the following draft sections for input:

- Subsequent Application Rounds (Topic 3: Applications Assessed in Rounds)
- Background Screening (Topic 22: Registrant Protections)
- String Similarity Review (Topic 24: String Similarity Evaluations)
- Internationalized Domain Names (Topic 25: IDNs)
- Dispute Resolution Procedures After Delegation (Topic 33: Dispute Resolution Procedures After Delegation)
- Registrar-Non-Discrimination / Registry/Registrar Standardization (Topic 37: Registrar Non-Discrimination / Registry/Registrar Standardization)
- Registrar Support for New gTLDs (Topic 38: Registrar Support for New gTLDs)
- Root Zone Label Generation Rules (Topic 25: IDNs)
- Closed Generics (Topic 23: Closed Generics)

More information from the IRT, as well as meeting recordings, and other material is available [here](#).

4. Next Round Website

The [website](#) for the New gTLD Program was launched following ICANN79, and it is expected to be a central source of information for the ICANN community as well as current and future new gTLD applicants. The website includes information about the program, tools and resources for applicants, updates on program status, and information regarding a specific round (e.g. 2012 versus the upcoming round). The initial rollout of the site provides details and information about the [Registry Service Provider (RSP) Evaluation Program](#) and the [Applicant Support Program](#).

Key Reference Documents

- Board follow-up on Board-GAC Bylaws Mandated Consultation Processes on GAC Advice:

  - [Follow-up](#)on 3 September 2024 Board-GAC Consultation regarding ICANN77 GAC Advice Item 4.a.i (Auctions) (3 October 2024)

  - [Update](#)following Board-GAC Bylaws Consultation on ICANN80 GAC Advice on the New gTLD Applicant Support Program (ASP) (3 October 2024)

- [Board Action on ICANN80 GAC Advice](#) (29 July 2024)

- [ICANN Board Proposed Path Forward for the GAC Consensus Advice in the ICANN80 Kigali GAC Communique](#) (23 July 2024)

- [Board Scorecard on ICANN78 GAC Issues of Importance (9 May 2024)](#)

- [Board Action on ICANN79 GAC Advice (5 May 2024)](#)

- [Draft New gTLD Program: Next Round Applicant Support Handbook](#) (12 February 2024)

- [Board Action on ICANN78 GAC Advice](#) (21 January 2024)

- [Overview of Analyses of Costs and Benefits of a Next Round of the New gTLD Program](#) (22 January 2024)

- [GNSO Guidance Process (GGP) for Applicant Support Guidance Recommendation Final Report](#) (8 December 2023)

- [Implementation Framework for Content-Related Registry Commitments in the New gTLD Program: Next Round](#) (5 December 2023)

- [ICANN78 GAC Hamburg Communiqué](#) (30 October 2023)

- [October 2023 Board Scorecard: Subsequent Procedures (SubPro PDP)](#) (26 October 2023)

- [September 2023 Board Scorecard: Subsequent Procedures](#) - 10 September 2023

- [Board Scorecard on ICANN77 GAC Advice](#) (10 September 2023)

- [Board Scorecard on ICANN77 GAC Issues of Importance](#) (21 September 2023)

- [Scorecard: Subsequent Procedures (SubPro PDP)](#) - 16 March 2023

- [ICANN77 GAC Communiqué](#) - 20 June 2023

- [New gTLD Subsequent Procedures Operational Design Assessment](#) - 12 December 2022

- [GAC Consensus Collective Comment](#) (1 June 2021) on GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration.

- [Final Report on the new gTLD Subsequent Procedures PDP WG](#) - 1 February 2021

Further Information

- GAC Policy Background Document on Subsequent Rounds of New gTLDs:
  https://gac.icann.org/briefing-materials/public/gac-policy-background-new-gtlds-subsequent-rounds.pdf

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