
.AMAZON Update

Session 9 - .AMAZON Update

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Session Objectives

During this session, GAC members will discuss the latest developments regarding the .AMAZON applications, hear views expressed by interested country representatives and, if needed, discuss potential follow-up by the GAC or GAC members.

Introduction

The .AMAZON applications have been of substantial interest to the GAC for several years and have been the subject of GAC advice. This brief is intended to provide a high-level overview of the developments on this issue since the ICANN65 Marrakech Meeting - followed by links to the correspondence and developments that have taken place among various parties since that meeting.

¹

The Background section of this document provides historical information about the proceeding and will assist readers who are new to the matter. More experienced GAC participants may wish to focus on the Recent Relevant Developments section of this brief.

¹ Extensive background briefings on this topic were shared in the .AMAZON briefings provided for the ICANN64 Kobe and ICANN 65 Marrakech meetings and can be reviewed here - https://gac.icann.org/briefing-materials/public/icann64-gac-briefing-.amazon-version2.pdf?language_id=1 and here https://gac.icann.org/file-asset/public/icann65-gac-briefing-05.2-dot-amazon-update-v1-17jun19.pdf?language_id=1

Background

Initial Applications -

As part of the ICANN 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. 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-communicue>), 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-communicue>).

On 14 May 2014, the ICANN 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%20#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, “to develop and implement a mutually acceptable solution to the challenging issue of geographic names” for the .AMAZON TLDs. ACTO/OTCA 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 [New gTLD Program Committee] 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

² See .AMAZON IRP Final Declaration:

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

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 the ICANN60 meeting in Abu Dhabi, the Amazon corporation had 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 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 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-communique>), 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 meetings. The [pre-meeting Briefing](#) for the ICANN65 Marrakech meeting includes further detailed developments transpiring between the Kobe and Marrakech meetings.

Recent Relevant Developments

(May 2019 - October 2019)³

Events leading up to ICANN65 -

On 15 May 2019, the ICANN Board (see Resolution 2019.05.15.13) 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 ‘continue 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

³ Previous background information about this matter (from March 2019 to June 2019) can be found in the ICANN65 GAC Pre-meeting briefing. That briefing can be found at this link - [icann65-gac-briefing-05.2-dot-amazon-update-v1-17jun19.pdf](#) .

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 15 June 2019, Colombia 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 (hereinafter “Reconsideration Request 19-1”)(see access link in the [Key Reference Documents](#) section of this document).

GAC Actions at ICANN65 -

On 24 June 2019, the GAC met in plenary session with ICANN Board Members at ICANN65 in Marrakech. During that meeting several GAC members expressed their concerns about :

- the recent Board decision to find the Amazon corporation proposal of 17 April 2019 acceptable;
- the recent Board decision directing the ICANN org to continue processing of the .AMAZON applications according to the policies and procedures of the New gTLD Program; and
- the possibility of the outcome in the .AMAZON case becoming a precedent for similar cases for delegation of sensitive strings that the GAC has stressed as raising public policy concerns in future.

Several GAC members referenced the ICANN60 Abu Dhabi GAC Communiqué in which the GAC recognized “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.” The comments to the Board reflected concern that such a mutually acceptable solution has not yet been achieved.

ICANN Board members expressed different views with regard to these concerns, reflecting that GAC advice was followed by ICANN. Board members noted ICANN org’s efforts in facilitating parties coming together. They stated these efforts were conducted in good faith and with a "view to reach a mutually acceptable solution," as articulated in the Abu Dhabi GAC advice. Board members further expressed that the Board takes GAC advice seriously, not just because it is important, but also because it is in accordance with ICANN bylaws. Board members indicated that they looked forward to the GAC Marrakech Communique and that they stood ready to respond to any GAC Consensus Advice.

On another note, some GAC members urged all parties to exhaust all means consistent with applicable procedures to facilitate a mutually acceptable solution.

At the end of the ICANN65 meeting the GAC published it’s Communique in which it included the following “Follow-Up on Previous Advice” regarding the topic of the “.AMAZON applications”.

“The GAC asks the Board to explain in writing whether and why it considers that its decision to proceed with the .AMAZON applications, based on a proposal that the eight Amazon countries considered did not address their concerns, complies with GAC Advice.

RATIONALE

During the meeting with the ICANN Board, several GAC members expressed their concerns about the recent Board decision to find the Amazon corporation proposal of 17 April 2019 acceptable and directing the ICANN org to continue processing of the .AMAZON applications according to the policies and procedures of the New gTLD Program. Concerns were also expressed with the possibility of the outcome in the .AMAZON case becoming a precedent for similar cases for delegation of sensitive strings that the GAC has stressed as raising public policy concerns in future. Several members referenced the ICANN60 Abu Dhabi Communiqué, where:

a) in section “V. Follow-up on Previous Advice”, with regard to the “Application for .amazon and related strings”, “[t]he GAC expressed 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”; and

b) in section “VII. GAC Consensus Advice to the Board”, with regard to “Applications for .amazon and related strings”, “[t]he GAC recognizes the need to find a mutually acceptable solution for the countries affected and the Amazon corporation to allow for the use of .amazon as a top level domain name”.

Several members also referenced the letter the GAC sent to the Board on 15 March 2018 in response to the Board’s request for “new or additional information to provide to the Board regarding the GAC’s advice that the Amazon applications should not proceed”, where it was stated that “the GAC does not have any additional information to provide to the Board on this matter, beyond referring to the GAC Abu Dhabi Communiqué.”

Some members did not necessarily agree with the basis of these concerns as articulated above nor with the interpretation of GAC advice on this subject.

On another note, some GAC members during the discussion with the ICANN Board, urged all parties to exhaust all means consistent with applicable procedures to facilitate a mutually acceptable solution.

This request for a written response from the Board should be considered a follow-up to the GAC-Board discussion during ICANN65 and should not be construed as new GAC Advice on this matter.”

Events Since ICANN65 -

GNSO Comments

On 25 July, the Generic Names Supporting Organization (GNSO) transmitted its “GNSO Comments on GAC Advice” to the Board (see

https://gac.icann.org/file-asset/public/GNSO%20Council%20Review%20of%20GAC%20Communique%20-%20Marrakech%20-%20June%202019.pdf?language_id=1. The GNSO stated,

“As this Advice from the GAC is merely a request for the Board to explain its actions, the GNSO Council sees little harm in the Board doing so.”

Board Consideration of Colombia Reconsideration Request 19-1

On 14 August 2019 the ICANN Board’s Accountability Mechanisms Committee (BAMC) considered Reconsideration Request 19-1 that had been submitted by Colombia (see <https://www.icann.org/resources/board-material/agenda-bamc-2019-08-14-en>). The BAMC produced a 35-page document that concluded with a recommendation indicating,

“The BAMC has considered the merits of Request 19-1 and, based on the foregoing, concludes that neither the Board nor the staff took action without consideration of material information, based on false or inaccurate relevant information, or in contradiction of ICANN’s Bylaws. Accordingly, the BAMC recommends that the Board deny Request 19-1.”

On 23 August 2019, ICANN the Secretary General of the Amazon Cooperation Treaty Organization presented ICANN with a Joint Declaration of the Presidents of the Mercosur Member States and Associate States, which is a result of the Mercosur Summit of Presidents, held on July 17th and 18th, 2019 in Santa Fe, Argentina. The declaration served to “highlight the concern of the relevant Member States in relation to the decision made by the ICANN Board of Directors to delegate the “.amazon” top level domain to Amazon Inc. on an exclusive basis.”

Board Scorecard Response to GAC Communique

On 8 September 2019, the ICANN Board approved its Scorecard response to the GAC’s Marrakech Communique. On the subject of the .AMAZON applications, the Board stated its understanding that

“[T]he GAC wishes for the ICANN Board to explain in writing whether and why the ICANN Board considers that its decision to proceed with the .AMAZON application, based on a proposal that the eight Amazon countries considered did not address their concerns, complies with GAC Advice.”

The Board produced a 985-word explanation in the Scorecard (see <https://www.icann.org/en/system/files/files/gac-icann65-marrakech-communique-scorecard-08sep19-en.pdf>) in which it concluded that

“The Board has therefore met the GAC advice from Abu Dhabi, in that the ICANN org President and CEO facilitated discussions between the two parties for over a year. Likewise, the Board has received sufficient input and had the necessary materials to make this decision...”

and stated

“The Board understands that some GAC members have concerns regarding this resolution but hopes that the above provides additional insight into the reasons why the Board has taken the action that it has.”

Board Decision on Colombia Reconsideration Request 19-1

Also on 8 September 2019, the ICANN Board considered the 14 August 2019 recommendation of the BAMC and resolved to adopt the 14 August 2019 Recommendation of the BAMC regarding Colombia's Reconsideration Request 19-1. As rationale for its decision, the Board stated,

- The Board Did Not Fail to Consider Material Information Before Adopting the Resolutions;
- The Board Did Not Adopt the 15 May 2019 Resolutions Based on False or Inaccurate Information;
- The Board's Adoption of the Resolutions Was Consistent with ICANN's Bylaws; and
- No Meeting Was Scheduled with the RySG to Discuss a Potential Process to Modify PICs.

Opportunity to Comment on Amazon Corporation PICs

Subsequent to the Board's decision, on 13 September 2019, the GAC Chair alerted the GAC that the proposed Public Interest Commitments (PICs) from the Amazon corporation, along with the proposed Specification 13, had been posted by ICANN org for public comment (see - <https://mm.icann.org/mailman/private/gac/2019-September/017877.html>). It was noted that the documents, along with additional information related to the applications, were available at:

- **xn—cckwcxetd:** <https://gtldresult.icann.org/applicationstatus/applicationdetails/929>
[\[gtldresult.icann.org\]](https://gtldresult.icann.org)
- **xn--jlq480n2rg:** <https://gtldresult.icann.org/applicationstatus/applicationdetails/926>
[\[gtldresult.icann.org\]](https://gtldresult.icann.org)
- **.AMAZON:** <https://gtldresult.icann.org/applicationstatus/applicationdetails/984>
[\[gtldresult.icann.org\]](https://gtldresult.icann.org)

and that the proposed Specification 13 submissions for the .AMAZON applications were available at:

<https://newgtlds.icann.org/en/applicants/agb/base-agreement-contracting/specification-13-applications> [\[newgtlds.icann.org\]](https://newgtlds.icann.org). GAC Members were advised that the PICs and Specification 13 would be open for comment until 12 October 2019.

In advance of the 12 October 2019 filing deadline, representatives of Brazil, Ecuador and ACTO each filed comments on the Public Interest Commitments from the Amazon Corporation. Those comments were shared on the GAC mailing list and links to them have been posted on the ICANN Global Domains division web page at this link -

<https://newgtlds.icann.org/en/applicants/agb/base-agreement-contracting/specification-13-applications>. Links to the individual comments can be found in the Key Reference Documents section of this briefing document.

GAC Action

During this session the GAC will discuss the latest developments regarding the .AMAZON applications, hear views expressed by interested country representatives and, if needed, discuss potential follow-up by the GAC or GAC Members.

Key Reference Documents

Significant Recent (2019) ICANN Board Documents and Resolutions:

- 10 March 2019 - ICANN Board Resolution (2019.03.10.01) - <https://www.icann.org/resources/board-material/resolutions-2019-03-10-en#1.a>
- 15 May 2019 - ICANN Board Resolution (2019.05.15.13) - <https://www.icann.org/resources/board-material/resolutions-2019-05-15-en#1.c>
- 14 August 2019 - Recommendation of the Board Accountability Mechanisms Committee (BAMC) - Reconsideration Request 19-1 - <https://www.icann.org/en/system/files/files/reconsideration-19-1-colombian-bamc-recommendation-14aug19-en.pdf>
- 8 September 2019 - ICANN Board Resolution (2019.09.08..08) adopting 14 August 2019 Recommendation of BAMC regarding Reconsideration request 19-1 - <https://www.icann.org/resources/board-material/resolutions-2019-09-08-en#2.b>

Significant Recent Correspondence - shortly before and since ICANN65 - Marrakech Meeting:

- 4 June 2019 - Letter from Ambassador Arturo Jarama Director, Department for Science and Technology Ministry of Foreign Affairs, Peru RE: New gTLD Application for .AMAZON, providing the “Special Declaration of the Andean Presidential Council on the Use of New Technologies and the TLD .amazon”, signed by the Presidents of Peru, Colombia, Bolivia, and Ecuador. - <https://www.icann.org/en/system/files/correspondence/jarama-to-chalaby-04jun19-en.pdf>
- 13 June 2019 - Letter Reply to Ambassador Arturo Jarama from ICANN CEO Goran Marby - advising that “per resolution 2019.05.15.13, ICANN org will now proceed with processing of the .AMAZON applications.” - <https://www.icann.org/en/system/files/correspondence/marby-to-jarama-13jun19-en.pdf>
- 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)
- 23 August 2019 - Transmittal of and Joint Declaration of the Presidents of the Mercosur Member States and Associate States, which is a result of the Mercosur Summit of

Presidents, held on July 17th and 18th, 2019 in Santa Fe, Argentina -

<https://www.icann.org/en/system/files/correspondence/moreira-to-marby-23aug19-en.pdf>

- 13 September 2019 - Notice to GAC from GAC Chair of Availability of .AMAZON public Interest Considerations and Specification 13 for Public Comment until 12 October 2019-
<https://mm.icann.org/mailman/private/gac/2019-September/017877.html>
- 9 October 2019 - Comment by Brazil's Representative to GAC on .amazon application and PIC - <https://mm.icann.org/pipermail/spec13-request/2019-October/000011.html>
- 11 October 2019 - Letter from Ambassador of Ecuador in Brazil to ICANN President and CEO - presenting Ecuador's Comments on the Amazon PICs -
<https://mm.icann.org/mailman/private/gac/attachments/20191012/98816e56/NOTA4-7-047-2019-0001.jpeg> (jpeg photo of letter shared with GAC mailing list)
- 11 October 2019 - Amazon Cooperation Treaty Organization comments on the "Public Interest Commitment" regarding the attribution of the Dot Amazon Top Level Domain presented by Amazon Inc. -
<https://mm.icann.org/pipermail/spec13-request/2019-October/000013.html>

Further Information

- ICANN64 - Kobe 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
- ICANN65 - Marrakech Pre-Meeting Briefing for the GAC - dotAmazon - Block 5 - Session 5.2 -
https://gac.icann.org/file-asset/public/icann65-gac-briefing-05.2-dot-amazon-update-v1-17jun19.pdf?language_id=1
- ICANN65 GAC Communique -
<https://gac.icann.org/contentMigrated/icann65-marrakech-communique>

Document Administration

Meeting	ICANN66 - Montreal, Canada , November 2019
Title	.AMAZON Update - #9 - Briefing
Distribution	GAC Members and Public (after meeting)
Distribution Date	Version 1: 15 October 2019