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## Subsequent Rounds of New gTLDs

### Session(s) 2, 6, 10, 11 - Subsequent Rounds: Prepare for GNSO Sessions/GAC Discussion on Subsequent Rounds

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#### Sessions Objectives

- Contribute to reviewing and updating of relevant GAC positions
- Attend and provide input in PDP WG Discussions
- Identify any concerns or key priorities for the GAC

## Background

Since its incorporation, ICANN has delivered several expansions of the Top-Level Domain (TLD) names space. The latest and most significant expansion started in 2012, and has seen more than 1000 New gTLDs added to the DNS.

This latest expansion, known as the New gTLD Program or the 2012 round of New gTLDs, was the product of a multi-year process of policy development, in which the GAC participated, with contributions in the form of policy principles, safeguards advice and objections to applications that could cause public policy concerns.

Several processes<sup>1</sup> that have been supporting deliberations on these findings and wider policy issues related to further expansion of gTLDs have been of interest to the GAC, in particular:

- The [Consumer Trust, Consumer Choice and Competition Review](#) whose [Final Recommendations](#) (8 September 2018) are in the process of being implemented, amid intense debates, per the ICANN Board's [decision](#) (1 March 2018)
- The GNSO's [Review of All Rights Protection Mechanisms in All gTLDs PDP](#) tasked to assess the effectiveness of instruments such as the UDRP, URS and TMCH and suggest new policy recommendations in these areas
- The GNSO's [New gTLD Subsequent Procedures PDP](#) (Sub Pro PDP), and within it, the specific [Work Track 5 on Geographic Names at the Top Level](#)

Since 2016, the New gTLDs Subsequent Procedures (Sub Pro) PDP WG has been deliberating by reviewing and discussing the 2012 program, and soliciting community input on policy recommendations to improve the next round of new gTLDs. Ultimately, the outcome of this PDP WG will be the basis for the policy and rules governing the next gTLD expansion.

## Issues

At the moment the Sub Pro PDP WG is discussing and working towards drafting final recommendations for the upcoming public comment period expected late July-August 2020. The final recommendations are expected to be submitted to the GNSO Council by the Sub Pro PDP WG in December 2020.

ICANN67 Cancun is an opportunity for face-to-face interaction between GAC Members and Subsequent Procedures PDP WG members during WG deliberations on the ongoing drafting of the final recommendations, and more broadly on items of importance to the GAC before they are included in final recommendations.

Several steps with varying time-lines would follow per the Policy Development Process after the PDP Sub Pro submits final recommendations to the GNSO Council:

- i. GNSO Council consideration and adoption of the PDP recommendations in the Final Report;
- ii. ICANN Board consideration of the PDP recommendations as adopted by GNSO Council

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<sup>1</sup> See timeline at <https://newatlds.icann.org/en/reviews> for an overview of relevant processes and some of their interactions

- iii. ICANN org (as directed by the Board) to begin implementation of the policy recommendations (which will likely include a revised Applicant Guidebook).

Upon completion of these successive steps ICANN org would be expected to start receiving new applications for gTLD, possibly not until 2021/2022.

The GAC has [advised](#) that it should be done in a “*logical, sequential and coordinated way*” that takes into account the results of “*all relevant reviews*”, requirements of “*interoperability, security, stability and resiliency*”, “*independent analysis of costs and benefits*”, and while proposing “*an agreed policy and administrative framework that is supported by all stakeholders*” in the [GAC Helsinki Communiqué](#) (30 June 2016) as reiterated in the [GAC Kobe Communiqué](#) (14 March 2019).

### **Leadership Proposal for GAC Action**

1. Increase GAC understanding and knowledge of procedural and substantive aspects of ongoing policy developments in the GNSO Subsequent Procedures (Sub Pro) PDP WG
2. Enable GAC members’ attendance in the PDP WG sessions during ICANN67 towards providing relevant public policy input in the ongoing policy discussion
3. Review and update GAC policy positions regarding the ongoing policy development including other processes related to Subsequent Rounds of new gTLDs
4. Identify policy positions and concerns to be discussed by the GAC, for potential input to the Sub Pro PDP WG (as part of and/or aside from the future public comment on July-August) and/or to the ICANN Board, in the form of GAC Advice only if needed and developed through GAC consensus.

## Relevant Developments

The GNSO's New gTLD Subsequent Procedures PDP was [initiated](#) on 17 December 2015 to determine *"whether changes or adjustments to the existing policy recommendations [...] are needed"* in relation to original policies that the Working Group [charter](#) recognizes as *"designed to produce a systemized and ongoing mechanisms for applicants to propose new top-level domains"*.

Deliberations of the Working Group so far have included:

- a [first round of community consultations](#) on overarching issues (Summer 2016)
- a [second round of community consultations](#) on a wide range of more specific topics (March-May 2017). It received 25 [submissions](#).
- an [Initial Report](#) (3 July 2018) documenting the Working Group's deliberations, preliminary recommendations, potential options, as well as specific questions to the ICANN Community. It received 72 [submissions](#) in a period of 3 months.
- a [Supplemental Initial Report](#) (30 October 2018) addressed a more limited set of additional issues including Auctions, Application Comments, Changes to Applications and proposal to improve Registrar support of New gTLDs. It received 14 [submissions](#).
- a [Supplemental Initial Report of its Work Track 5](#) (5 December 2018) dedicated to address the use of Geographic Names at the Top Level<sup>2</sup>.

The full Working Group has reviewed the public comments on its [Initial Report](#) and [Supplemental Initial Report](#) through to ICANN66.

At the time of this briefing, the Sub Pro Working Group is currently working on drafting final recommendations to be submitted for public comment expected in July-August 2020. This process entails the PDP WG reviewing the high level agreements reached within the PDP WG to date, and reflecting WG consensus into draft final recommendations. Please see the WG [Work Plan](#) for details.

Based on the PDP WG [Work Plan](#), eight topics should be reviewed with final recommendations drafted prior to ICANN67:

- Applicant Guidebook
- Communications
- Systems
- Applications & Variable Fees
- Closed Generics
- Global Public Interest
- String Similarity

After finalizing the final recommendations a public comment is envisaged for July 2020 before delivering the report to the GNSO Council in December 2020.

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<sup>2</sup> Policy development in the area of geographic names is handled separately in the GAC, who formed a internal Working Group for this purpose. Please refer to appropriate resources on the GAC Website for the GAC's Geographic Names Working Group and its [activities related to Work Track 5 of the GNSO Subsequent Procedures PDP](#).

## Current Positions

This section provides the most recent summary of GAC positions in alphabetical order reviewed by GAC Leadership regarding policy areas related to future rounds of New gTLDs discussions with the highest potential of public policy impact. Please also refer to the two key documents for the GAC as part of the GAC ICANN67 Briefing package: 1) [GAC Scorecard](#) for a more comprehensive reference of previous GAC input/advice provided to date and 2) the [GAC Overview Document on Subsequent Procedures of New gTLDs](#), which provides an explanatory overview of each policy area identified in the Scorecard.

### **Applicant Evaluation and Accreditation Programs:**

The GAC provided input via its [comment](#) on the Sub Pro PDP WG Initial Report noting that Applicant evaluation and Registry Service Provider pre-approval process to include consideration of potential security threats. Such consideration should include using tools such as ICANN's DAAR to identify any potential security risks (and affiliated data) associated with an application. The Sub Pro PDP Working Group has confirmed that the only difference between a pre-approved RSP and one that is approved during application evaluation is the timing of when the approval takes place. Therefore, all criteria for evaluation and testing (if applicable) should be essentially identical. The Sub Pro PDP WG is unsure of how to integrate data such as DAAR, which provides data for an already delegated TLD, into the evaluation process. The GAC Leadership welcomes discussions with the PDP WG on how tools like DAAR can benefit the evaluation process.

### **Applicant Support and Participation of Underserved Regions:**

The GAC Leadership is aware of ongoing discussions within the Sub Pro PDP WG on this topic and looks forward to the PDP WG discussing their final recommendations. In the meantime, as indicated in the [GAC Comment on CCT-RT Accepted Recommendations - Plan for Implementation and Next Steps](#):

- *“the GAC supports expanding and improving outreach to these regions noting that such outreach [in the Global South] does require a more comprehensive approach and better targeting, building on the challenges identified with past initiatives. The GAC believes that new / appropriate definitions of the terms Global South, as used in the CCT-RT Final Report, underserved or underrepresented regions should be considered.”*
- *“According to the GAC Underserved Regions Working Group, focus is put on underserved regions by the DNS industry, and on least developed economies and small island developing states.”*
- *“ICANN org should identify which regions are considered as ‘underserved’ and ‘underrepresented’ and in what context are they defined as such.”*
- *“Once identified, ICANN org should provide regional targeted capacity building efforts to all ICANN community stakeholders, on the Applicant Support Program for new gTLDs applications in preparation for subsequent rounds, in a timely manner to allow stakeholders*

*to be prepared for the subsequent round, and better promote competition, consumer choice and consumer trust.”*

#### **Auction Procedures:**

With regard to the use of auction mechanisms, the GAC Leadership reiterates divergence with current PDP deliberations through its [comment](#) on the Subsequent Procedures PDP WG Initial Report noting that:

- *“Auctions of last resort should not be used to resolve contention between commercial and non-commercial applications.”*
- *“As to private auctions, incentives should be created to strongly disincentivise that instrument.”*

#### **Clarity and Predictability of Application Process:**

The GAC Leadership is aware of details being developed for a [“New Predictability Framework”](#) which proposes the creation of a Standing Predictability Implementation Review Team (“SPIRT”), a new GNSO structure to advise its Council, and with which ICANN org would be required to consult when it considers a change/modification to the New gTLD program after its launch (that is after new applications have been received). While the GAC Leadership notes understand that this structure would be advisory and is not meant to impact the ability of the GNSO and other SO/ACs from performing their roles assigned under the ICANN Bylaws, we recall that the GAC has stressed in its [comment](#) on the Sub Pro Initial Report (8 Oct. 2018):

- *“The GAC - and others -The need for a degree of flexibility to respond to emerging issues at the global space, [...] within ICANN processes to ensure consistency, as application of national laws country-by-country may not be sufficient.as dealt with in ICANN processes, since national laws may not be sufficient to address them.”*
- *“The need for such flexibility continues after the conclusion of a GNSO PDP.”*

#### **Closed Generics:**

The GAC Leadership is aware of persistent divergence within the Sub Pro PDP WG on this matter and looks forward to the PDP WG discussing its final recommendation. In the meantime, the GAC Beijing Advice remains the GAC’s reference position, noting that for strings representing generic terms, exclusive registry access should serve a public interest goal.

#### **Future Releases of New gTLDs (Timing and Prerequisites):**

The Sub Pro PDP WG Co-Chairs signaled to the GAC (ICANN64 GAC plenary session) that Policy recommendations on this matter may be at odds with Helsinki Advice (recalled in the [Kobe Communiqué](#)), since *“the GAC recall[ed] its advice in the ICANN56 Helsinki Communiqué, which states that the development of policy on further releases of new gTLDs needs to fully consider all the results of the relevant reviews and analyses to determine which aspects and elements need adjustment. The GAC advised the Board to address and consider these results and concerns before proceeding with new rounds”*. The GAC Leadership is aware that the Sub Pro PDP WG has not conducted cost/benefit analysis on further releases of new gTLDs and notes that this understanding

is based on existing policy that “it is the policy of ICANN that there be subsequent application rounds, and that a systemized manner of applying for gTLDs be developed in the long term” (New gTLD Applicant Guidebook, section 1.1.6).

In its response (15 May 2019) to the GAC Kobe Communiqué Follow-up (14 March 2019) on the Helsinki Advice (30 June 2016), the ICANN Board responded: “As noted in the Helsinki Scorecard, the Board accepted the advice and monitored the work of the community [...]. All of the Bylaws- and Board-committed reviews related to the 2012 round of new gTLDs have been completed. [...] The Board will consider the policy recommendations when the community completes its work [...]”.

### **GAC Early Warning and GAC Advice:**

The GAC noted that Sub Pro PDP WG deliberation (in particular in its [23 September 2019 call](#)) contrasts from [GAC input on the Initial Report](#), since the PDP WG is considering removing in future editions of the Applicant Guidebook language included in the 2012 AGB section 3.1 that GAC Advice “will create a strong presumption for the ICANN Board that the application should not be approved.” In addition, the Sub Pro WG apparently believes that this language hampers opportunities for applicants and the GAC to work together to agree on mitigation of concerns, which could allow an application to proceed upon resolution of concerns. As per the [GAC comment](#) on the Sub Pro PDP WG initial report:

- The GAC reiterates that GAC Early Warning and GAC Advice “were a useful mechanism to identify applications that raise public policy concerns [...] and should be an integral part of any future rounds.”
- “The GAC would welcome the opportunity to discuss options to increase the transparency and fairness of these arrangements (including providing a rationale for objections and giving applicant subject to Early Warnings the opportunity for direct dialogue with the GAC...”
- “However, the GAC does not consider that the PDP should make recommendations on GAC activities, which are carried out in accordance with the Bylaws and GAC’s internal procedures.”

### **Public Interest Commitments (PICs):**

GAC [Comment](#) on the Sub Pro PDP WG Initial Report originally proposed that registries be required to screen registrants for proper credentials at the time of registration to ensure that they are what they purport to be before they may do business with the public using the name of a regulated sector such as a bank or pharmacy. As implemented by ICANN, registrants themselves were to self-report that they possessed the necessary credentials “thus posing a” risk of consumer fraud and potential harm because bad actors will not hesitate to make false representations about their credentials. The GAC most recently [...] [recommended](#) that “before making any final recommendations” the PDP “consider[s] the GAC’s prior safeguard advice and any recommendations in the CCT final report on these issues” noting statements in CCT Review Final Report “that there are difficulties with assessing the effectiveness of new gTLD consumer safeguards, particularly PICs, due to lack of a reporting framework and associated data). The GAC expects that before making any final recommendations, the Sub Pro PDP will fully consider the GAC’s 2012 safeguard advice and any recommendations in the CCT final report related to these

issues . The GAC also noted in its [Comment](#) on [Sub Pro PDP Initial Report](#) (8 October 2018) that PICs should be effectively monitored by ICANN for compliance, with appropriate sanctions when breached.

**Safeguards (Highly regulated sectors, Registration Restrictions, DNS Abuse):**

The GAC provided detailed advice on safeguards for sensitive, regulated and highly regulated gTLDs in its [Beijing Communiqué](#) and reiterated this advice in several subsequent Communiqués.

**TLD Categories (or Types):**

The GAC Leadership is aware that current Sub Pro PDP WG high level agreement notes support to maintain existing categories and to not create additional categories, with the exception of formally adopting the .Brand category. The latest GAC position on this matter is the [GAC Nairobi Communiqué](#) Advice - which was recalled in GAC comments to SubPro - calling for further exploration of categories and addressing fees.

**Additional Issues of Interest to the GAC:**

From prior GAC positions on the matter, the GAC Leadership wishes to also note that the GAC also follows with great attention the following issues being debated within the PDP WG SubPro and is looking forward to analysing the final recommendations proposed by such WG:

- Community based applications
- Geonames as TLDs
- Reserved Names



## Key Reference Documents

- [GAC Scorecard: Status of Substantive Areas of Interest to the GAC for Subsequent New gTLD Rounds.](#)
- [GAC Overview Document on Subsequent Rounds for new gTLDs](#)

## Further Information

- [Working Document - Subpro PDP WG Draft Final Recommendations](#)
- [GAC Response](#) to ICANN Board Clarification Questions on the GAC Montréal Communiqué Advice (20 Jan 2020)
- GAC Focal Group Issue Draft Briefs:
  - [GAC Advice & Early Warnings](#)
  - [Closed Generics](#)
  - [Global Public Interest & Public Interest Commitments](#)
  - [Applicant Support](#)
  - [CCT Review Rec 30 & 31 Jointly with USRWG](#)
  - GAC Scorecard of Board Action on CCT Review Final Recommendations (6 June 2019) annexed to the Briefing on the CCT Review for [Session 11.1 on ICANN Reviews Update](#)
- ICANN Board [resolution](#) and [scorecard](#) of Board Action on the CCT Review Final Recommendations (1 March 2019)
- [CCT Review Final Recommendations](#) (8 September 2018)

GAC [Helsinki Communiqué](#) Advice on [Future gTLDs Policies and Procedures](#) (30 June 2016)

## Document Administration

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