ICANN|GAC

Governmental Advisory Committee

ICANN
77
WASHINGTON, D.C.

GAC Opening Plenary Session

Session # 1 - Opening Plenary

Contents

Session Objective

The GAC Opening Plenary Session is the first formal opportunity for GAC participants to gather, introduce themselves and prepare for the ICANN Public Meeting week. During this session the GAC Chair also typically (1) provides a "state of the committee" review, (2) summarizes the GAC meeting agenda for the week and (3) identifies topic highlights and priority matters that merit GAC Member focus and attention.

Session Agenda

During this ICANN77 opening session, the GAC Chair will highlight particular aspects of the meeting week agenda and share logistical information to help in-person and remote attendees participate effectively during the meeting week.

The Chair will also highlight a number of substantive and operational matters that the committee is currently addressing and identify a number of work efforts that will attract committee attention in the coming months.

In this hybrid meeting format the committee will also employ the traditional "tour de table" ceremony during which all GAC delegates will be invited to introduce themselves. First, in-person delegates will identify themselves, followed by remote participants who raise their hands to indicate their desire to speak. Delegates will be invited to share comments on their meeting goals and expectations.

Time permitting, GAC members will review the Communique drafting process for ICANN77. The process has progressively evolved in the past several years and attendees will be familiarized with how some of those recent innovations will be encompassed for this public meeting.

Recent Developments

GAC Chair Reporting

Time permitting, the GAC Chair will likely report on recent discussions among ICANN Community leaders from other ICANN Supporting Organizations and Advisory Committees and recent communications among the Board-GAC Interaction Group (BGIG).

Since ICANN76, the GAC has sent and received written correspondence regarding various matters of importance to GAC members including the GAC ICANN76 Communique (ICANN Board), the ICANN Board CEO search (ICANN Board), ICANN Nominating Committee Rebalancing (ICANN Board), and GAC input on priority topics regarding the next round of new gTLDs (GNSO and ICANN Board).

Incoming and outgoing correspondence documents related to those matters and others since ICANN76 are posted and tracked on a special web page of the GAC website which can be accessed here - https://gac.icann.org/advice/correspondence/.

During the ICANN76 Community Forum, the GAC Support Staff noted a number of follow-up matters and action items agreed to among GAC attendees. Those items are tracked via a Google collaboration document that can be accessed here - https://docs.google.com/spreadsheets/d/1q2jygHjk1MQHoUYj2k1hjPDAw5TAebMRWqG98Go6eEY/edit#gid=721141591.

Key Reference Documents

- GAC ICANN76 Action Points (Google Doc) - https://docs.google.com/spreadsheets/d/1q2jygHjk1MQHoUYj2k1hjPDAw5TAebMRWqG98Go6eEY/edit#gid=1067667374
- GAC Public Comment Opportunities Web Page - https://gac.icann.org/activity/gac-public-comment-opportunities
- GAC Correspondence Web Page - https://gac.icann.org/advice/correspondence/

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ICANN | GAC
Governmental Advisory Committee

GAC Discussion of New gTLD Program Next Round

Session 2 and 6

Contents

Session Objective

GAC Members to 1) Review and discuss outputs from the GAC facilitated dialogue with the GNSO Council and ALAC on Closed Generics, 2) Discuss open issues relevant to GAC being discussed by Board and GNSO Council, and consider potential GAC advice on the matter 3) Be briefed about other developments such as GNSO Guidance Process (GGP) on applicant support and the Implementation Review Team.

Leadership Proposal for GAC Action

1. GAC to discuss current state of play and outputs from the GAC/GNSO/ALAC dialogue on Closed Generics, and determine whether GAC is in a position to endorse such outcomes, prior to a policy effort on closed generics being initiated.

2. GAC Members to discuss open issues relevant to the GAC being discussed by Board and GNSO Council, and consider potential GAC advice language on the matter based on prior GAC inputs regarding SubPro PDP WG Final Report.

3. GAC Members to receive an update on the GNSO Guidance Process (GGP) on Applicant Support and on the Implementation Review Team (IRT).

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Current Status and Recent Developments

1. Closed Generics

GAC members have engaged with GNSO and At-Large members in a facilitated dialogue on closed generics since November 2022, to develop a framework taking into account the GAC Beijing advice whereby "exclusive registry access should serve a public interest goal".

GAC members participating in this effort include Egypt, Switzerland, Canada, UK, Australia, and Nigeria.

It is planned that the facilitated dialogue group will share a draft framework with the ICANN community for review and input prior to ICANN77. This draft framework includes high-level policy elements relevant to the application phase, evaluation phase and post-delegation phase for closed generic gTLDs. The framework is intended to serve as the basis for a subsequent policy process to be initiated by the GNSO Council, pending agreement/endorsement by the GAC membership, GNSO and At-Large more broadly.

Interested GAC members are encouraged to participate in the two open sessions being held at ICANN77 by the facilitated dialogue group to be informed, provide input directly to the group or to ask questions.

GAC members are asked to consider the draft framework and provide comments to the framework. GAC advice is not currently anticipated, until GAC input is provided to the facilitated dialogue group and pending results from this joint effort.

Following community input, the facilitated dialogue group will consider the inputs received and finalize the draft framework, which will then be circulated to GAC, GNSO and ALAC for endorsement. If endorsed the framework will be considered through the appropriate GNSO policy development process. If the dialogue does not result in a mutually agreed framework, the Board will need to consider appropriate next steps.

2. Open policy issues of interest to the GAC pertaining to the next round of new gTLDs

Beyond closed generics, where the GAC can offer feedback to the GAC representatives to the facilitated dialogue, the GAC may use ICANN77 to review draft advice language prepared by Topic Leads in consultation with the GAC Small Team on SubPro, based on prior GAC consensus input to the PDP WG, and discuss if any of those items shall be raised to the level of GAC Advice to the Board. GAC members are encouraged to consider such potential Advice also in light of the Board Chair's letter to the GAC (23 May 2023), which suggests continued discussions between the Board and the GAC on items of interest to the GAC. Specifically, the Board Chair invites the GAC to discuss a clear path forward to supporting a Board decision regarding the recommendations on GAC Consensus Advice and GAC Early Warning, including how to address any GAC concerns during the implementation phase. The Board encourages the GAC to indicate its preferred method and timeline for engagement moving forward.

What follows is a summary of said "open policy issues":

- **Predictability**

The SubPro PDP WG introduced the Predictability Framework as a new tool to determine mechanisms to address changes that may need to be made during the New gTLD Program and to allow their implementation in a transparent and predictable manner. As part of its recommendations, the Working Group also included the formation of a Standing Predictability Implementation Review Team (SPIRT), which will review issues that arise and utilize the Predictability Framework to identify mechanisms to resolve identified issues.

The Predictability Framework also aims to allow the implementation of mechanisms to take place in a transparent and predictable manner.

The Operational Design Assessment (ODA) notes that the Predictability Framework contains several areas of ambiguity that need to be addressed during implementation. Some may need resolution with the SubPro IRT, such as roles and responsibilities, how to address multiple areas of impasse, and the SPIRT membership model. Specifically, the roles of stakeholders such as the ICANN Board, ICANN org, GNSO Council, and the SPIRT may need further definition in the Predictability Framework. Direction is also needed about how issues raised will be categorized and whether the SPIRT should advise on methods to address the issue in specific circumstances. More discussion may be needed about when to categorize items as policy or operational issues and what to do when ICANN org and the SPIRT disagree on categorization. Categorization is key because it determines the appropriate mechanism to address the issue.

Another area of ambiguity in the Predictability Framework is how to determine the appropriate process to introduce a change to the New gTLD Program if there are no underlying policy recommendations or implementation guidance.

In general, the Predictability Framework does not change existing roles of the Board, ICANN org, or GNSO Council, nor does it supersede the existing GNSO Council PDP. The SPIRT is a GNSO Council body that will assist in identifying appropriate mechanisms for handling an issue. In order to maximize predictability, ICANN org will incorporate guidelines on how issues will be triaged, categorized, and raised to the SPIRT within the Applicant Guidebook during the implementation period.

The GAC in its 1 June 2021 collective comment, expressed appreciation in the efforts of the SubPro PDP WG to create a Predictability Framework, and noted that some GAC members continued to have doubts on its added-value and shared concerns relative to the implementation of the Standing Predictability Implementation Review Team (SPIRT) and the added layer it may create regarding GAC consensus advice. GAC Members noted that further clarification on the implementation of the SPIRT should be encouraged, as well as on the role the GAC will play in it, especially in light of Implementation Guidance 2.3 suggesting direct dialogue between the SPIRT, ICANN org and the ICANN Board on GAC Consensus Advice, in which the GAC expects to be

included as well.

Furthermore, GAC members emphasized the importance of the opportunity for equitable participation on an equal footing on the SPIRT by all interested ICANN communities.

Proposed GAC Advice for consideration advises the Board to ensure equitable participation on the Standing Predictability Implementation Review Team (SPIRT) by all interested ICANN communities, on an equal footing.

- **Registry Voluntary Commitments (RVCs)/Public Interest Commitments (PICs)**

As RVCs/PICs were used during the 2012 round, there were some concerns expressed about enforcement. According to the CCT Final Report: *"The combination of a short timeframe to respond, and uncertainty about the specifics of enforcement may have deterred certain applicants from submitting PICs or impacted which PICs they elected to submit."*

ICANN org and the Board have noted concerns as to whether the language of the Bylaws (adopted after the launch of the 2012 round) might preclude ICANN from entering into future Registry Agreements (that materially differ in form from the 2012 round version currently in force) that include PICs and RVCs that reach outside of ICANN's technical mission as stated in the Bylaws. The language of the Bylaws specifically limits ICANN's negotiating and contracting power to PICs that are "in service of its Mission."

The Final Report recommends RVCs and PICs as one mechanism to overcome certain aspects of string similarity, as well as address GAC advice and objections.

Should the Board decide to adopt the recommendations as proposed, this could bear governance risks due to the Bylaws language in [Section 1.1](). "*The mission of [...] ICANN is to ensure the stable and secure operation of the Internet's unique identifier systems [...]. ICANN shall not regulate (i.e., impose rules and restrictions on) services that use the Internet's unique identifiers or the content that such services carry or provide, outside the express scope of Section 1.1(a)."*

The Operational Design Assessment (ODA) stipulates that one option to address this concern is to amend the Bylaws with a narrowly tailored amendment to ensure that there are no ambiguities around ICANN's ability to agree to and enforce PICs and RVCs as envisioned in the Final Report.

The GAC noted in its [1 June 2021 collective comment](), that "*consistent with the GAC Montreal Communiqué, the GAC further notes that any future voluntary and mandatory PICs need to be enforceable through clear contractual obligations, and consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties. Additional mandatory and voluntary PICs should remain possible in order to address emerging public policy concerns. The GAC recalls persistent GAC concerns regarding both the weak implementation of PICs applicable to gTLDs in highly-regulated sectors and the lack of clarity and effectiveness of the mechanism to enforce disputes (the Public Interest Commitments Dispute Resolution Process or PICDRP) and recommends that these issues are remedied in any subsequent rounds."*

Proposed GAC Advice for consideration asks the Board to ensure that any future Registry Voluntary Commitments (RVCs) and Public Interest Commitments (PICs) need to be enforceable through clear contractual obligations, and consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties. Additional mandatory and voluntary PICs should remain possible in order to address emerging public policy concerns.

- **Applicant Support**

The Applicant Support Program (ASP) was developed for the 2012 round with the goal of providing financial and non-financial assistance to gTLD applicants requiring support that intend to use a gTLD to provide a public interest benefit. The Final Report outputs on Applicant Support Program introduce a number of improvements to the way the program operated during the 2012 round. In August 2022, the GNSO Council initiated a GNSO Guidance Process (GGP) to provide additional guidance on ASP-related outputs.

ICANN org notes in the ODA that the ASP is an important program and has added planning details to the ODA with the aim of improving the program. Rec 17.2 of the final report calls for ICANN org to expand "the scope of financial support provided to [...] beneficiaries beyond the application fee to also cover costs such as application writing fees and attorney fees related to the application process."

As noted in the Board's comments on the Draft Final Report, expanding financial support to cover fees that ICANN org does not charge does not seem feasible or appropriate to implement.

In the ODA, ICANN org suggests working collaboratively with a sub-committee of the IRT focused on the Applicant Support Program to explore ways to follow the intent of examping the scope of the ASP, taking into account research on other globally recognized procedures.

The GAC noted in its 1 June 2021 collective comment general support for the final recommendations on applicant support, noting the importance of extending the scope of the program beyond only economies classified by the UN as least developed and also considering the "middle applicant". GAC members highlighted the importance of fostering gTLD applications from a diverse array of applicants, which could include regional and local authorities, from all regions and that every effort be made to increase the number of applications from underrepresented regions. The GAC reiterated its support for proposals to reduce or eliminate ongoing ICANN registry fees to expand financial support.

Proposed GAC Advice for consideration asks the Board to consider reducing or eliminating ongoing ICANN registry fees to expand financial support for applicants from underrepresented regions.

- **GAC Consensus Advice and GAC Early Warnings**

The process for GAC Advice on new gTLDs is intended to address applications that are identified by governments to be problematic (e.g., that potentially violate national law or raise sensitivities). GAC members can raise concerns about any application to the GAC. A GAC Early Warning typically results from a notice to the GAC by one or more governments that an application might be problematic. The full GAC will consider concerns raised by individual GAC members and may come to consensus on GAC advice to forward to the ICANN Board. As stated in the ICANN Bylaws, GAC advice must include a clearly articulated rationale and must be limited to the scope set out in the applicable Bylaws provisions.

Where GAC advice on new gTLDs is received by the Board concerning an application, ICANN will publish the advice and endeavor to notify the relevant applicant(s) promptly. The applicant has a period of 21 calendar days from the publication date in which to submit a response to the Board. ICANN org will consider the GAC advice on new gTLDs as soon as practicable. In the Final Report, the SubPro PDP WG provided seven outputs on the topic of GAC Early Warning and GAC Consensus Advice. Overall, ICANN org has not identified any procedural issues concerning the implementation of the recommendations and believes that the recommendations related to GAC Early Warning and GAC advice can be implemented. However, the GAC voiced concerns about specific recommendations concerning the timing of GAC advice on future categories of TLDs and limiting the scope of GAC advice to the scope set out in the applicable Bylaws provisions.

The Final Report recommends that, if in the future the GAC issues advice on categories of TLDs, the GAC should provide this advice prior to the finalization and publication of the next Applicant Guidebook. If the GAC advice is issued thereafter, the Board must consider whether to accept or override such advice in accordance with relevant Bylaws provisions. Specifically, the GAC "does not consider that the PDP should make recommendations on GAC activities which are carried out in accordance with the ICANN Bylaws and the GAC's internal procedures."134 In this regard, the GAC does not support the SubPro PDP WG recommendation "regarding the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to disincentivizing any such advice being submitted after the finalization and publication of the next Applicant Guidebook.

In the ODA, ICANN org notes the recommendations can be implemented as written in the Final Report. However, the Board may wish to engage with the GAC to address the GAC concerns with the Final Report outputs on Topic 30. Specifically, the Outputs recommended that GAC advice on future categories of TLDs and particular applications be provided as early as possible. It is important to note that the GAC is not prevented from submitting late advice or advice on TLD categories, as there are no binding impediments for the GAC regarding this recommendation. The Board may wish to note concerns regarding this issue and support clear expectations for all parties involved. Regarding the outputs on GAC Consensus Advice that is issued after finalization and publication of the Applicant Guidebook, the Board may wish to consider how it will handle disagreements concerning the possibility of the Board overriding GAC Consensus Advice in the event it is issued after the finalization and publication of the Applicant Guidebook.

The GAC noted in its 1 June 2021 collective comment Its lack of support for the SubPro PDP WG recommendation "regarding the timing of GAC Consensus Advice on future categories of TLDs and

particular applications, oriented to disincentivizing any such advice being submitted after the finalization and publication of the next Applicant Guidebook." There also are diverse views within the GAC on the "strong presumption" language. Some GAC members believe that Section 3.1 of the 2012 Applicant Guidebook, which states that GAC Consensus Advice "...should be maintained, as they consider that "this language was part of a delicate compromise during the 2012 round preparations and further consider that it is consistent with past and present Bylaws provisions. Further, said GAC members consider that the possibility of maintaining a dialogue with the concerned applicant is not hampered by this language." Other GAC members "support the Working Group's recommendation to remove this language, and believe that the text of any future Applicant Guidebook must be consistent with the Bylaws regarding GAC advice." The GAC also noted that "applications may not always be able to be remedied in the opinion of the Government(s) issuing a GAC Early Warning." As such, the GAC has proposed updated language to Recommendation 30.6 as follows: "[...] how the applicant may potentially address the GAC member's concerns to the extent feasible".

Proposed GAC Advice for consideration advises the Board 1) to not accept recommendation guidance 30.2 regarding the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to disincentivizing any such Advice being submitted after the finalization and publication of the next Applicant Guidebook; and 2) to adopt recommendation 30.6 with the inclusion of the compromise language submitted by the GAC as follows: "Government(s) issuing Early Warning(s) must include a written explanation describing why the Early Warning was submitted and how the applicant may address the GAC member's concerns *to the extent feasible*".

- **Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets**

In the 2012 round ICANN org included methods to resolve contention into the AGB and encouraged self-resolution and subsequently, private resolution of contention set (e.g., private auctions) were commonly used to resolve string contention sets. The PDP WG, however, did not reach consensus on private resolution of contention sets but noted that "some applicants that applied for multiple TLDs (called "Portfolio Applicants") leveraged funds from the private auctions they "lost" for financial positioning in the resolution of other contention sets."

The ODA proposes that in future rounds, in accordance with the Final Report output, applicants be required to sign a statement of bona fide intent to operate the gTLD and abide by the Contention Resolution Transparency Requirements. Additionally, during the implementation period, ICANN org will seek expert guidance to identify additional effective mechanisms to deter applicants from applying for new gTLDs solely for financial gain.

The GAC noted in its 1 June 2021 collective comment the GAC reiterated concerns on the implementation of the "bona fide" intention to operate a gTLD (as noted in the SubPro PDP WG Final Report) and noted that punitive measures for non compliance or submission of a "bona fide" intention are not sufficiently defined. Regarding Auctions of Last resort, the GAC reaffirmed its view that they should not be used in contentions between commercial and non-commercial applications, and reiterates that private auctions should be strongly disincentivized. The GAC sees value in ALAC's view expressed in its advice to the ICANN Board noting that they believe there

"should be a ban on private auctions. Also, by mandating ICANN only auctions, the proceeds of any such ICANN auctions can at least be directed for uses in pursuit of public interest, such as was determined through the CCWG on Auction Proceeds."

Proposed GAC Advice for consideration advises the Board 1) to ensure that auctions of last resort are not used in contentions between commercial and non-commercial applications, and 2) to ban or strongly disincentivize private auctions.

- **Community Applications**

Community Priority Evaluation (CPE) was a contention resolution mechanism available to applicants during the 2012 round that self-designated their applications as community applications. Prevailing in CPE allowed the community applicant to gain priority within a contention set, i.e., all other applicants in a contention set were not allowed to proceed in the New gTLD Program, assuming the prevailing applicant successfully completed all other New gTLD Program processes.

The SubPro Final Report affirms "the continued prioritization of applications in contention sets that have passed Community Priority Evaluation (CPE)"143 (affirmation with Modification 34.1). The rationale for this states that "the Working Group supports the overall approach used in the 2012 round for community-based applications, as well as the continued prioritization of applications in contention sets that have passed Community Priority Evaluation…"144 In addition, the SubPro Final Report proposes Implementation Guidance for improving the definitions and applications of CPE Criteria from the 2012 Applicant Guidebook. The SubPro Final Report also includes recommendations to improve the CPE process, in terms of information sharing, transparency, efficiency, and predictability.

In the ODA, ICANN org anticipates moving forward with the SubPro Final Report outputs on community applications and has designed the process accordingly. During the Operational Design Phase, ICANN org identified potential improvements to further mitigate risks. Further modifications to these proposed improvements can be explored with the IRT during implementation.

GAC Advice is not currently anticipated on community applications, due to sufficient substance and divergence in GAC views vis-a-vis policy recommendations within the SubPro PDP WG Final Report.

3. GNSO Guidance Process (GGP) on Applicant Support and Implementation Review Team (IRT)

GAC Members have appointed representatives on both the GNSO Guidance Process on Applicant Support, and the Subsequent Procedures Implementation Review Team (IRT).

On the **GGP on Applicant Support**, during its meeting on 25 August 2022, the GNSO Council approved the GGP Initiation Request to provide additional guidance to support the eventual implementation efforts relating to the Applicant Support Program, as recommended in the SubPro

Final Report. The working group was subsequently formed and began its work in November 2022, following its [work plan and timeline](#).

GAC Members appointed to the GGP on Applicant Support effort include: Argentina, United Kingdom and Universal Postal Union.

Its tasks include reviewing historical information about applicant support, identifying subject matter experts, developing data/metrics and measures of success, and creating methodology for allocating financial support where there is inadequate funding for all qualified applicants. Once the working group completes all of its tasks, it is expected to produce a GNSO Guidance Recommendation(s) Report, which will be subject to Public Comment.

Following the review of Public Comment submissions and, if required, additional deliberations, the working group will produce a Final Report for the consideration of the GNSO Council and subsequently for consideration by the ICANN Board.

During ICANN77, members of the GNSO Guidance Process (GGP) will hold a working session, aiming to conclude discussions of Task 6 related to financing the program, and begin the development of a draft report.

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 a draft Implementation Plan for the Implementation Review Team's input, including the ninety-eight recommendations from the SubPro PDP WG Final Report and incorporates a phased approach taking into account multiple factors, including internal resource and SME availability and interdependencies on the various streams. Implementation of the thirty-eight outputs currently in "pending" status as per the March 2023 Board Resolution will be integrated into the implementation work if/when these have been approved by the ICANN Board. The implementation plan currently assumes a 24 month timeline for drafting the Applicant Guidebook, with the support of the IRT.

4. Next steps

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](#)" 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, subject to the satisfactory completion of four deliverables by the conclusion of ICANN77 on 15 June 2023.

One of these deliverables is agreement between the ICANN Board and GNSO Council on a plan and timeline for the consideration and resolution of all Outputs contained in Section B of the Scorecard, on which the Board has yet to reach a decision and have been designated as "pending".

As part of the Operational Design Phase (ODP) the GNSO Council provided additional input on several topics, which will be taken into account by ICANN org when implementing the applicable Recommendations.

Upon completion of these successive steps ICANN org would be expected to start a new round of applications for gTLDs, by May 2026.

Key Reference Documents

- Final Report on the new gTLD Subsequent Procedures PDP WG
- GAC Consensus Collective Comment (1 June 2021) on GNSO New gTLD Subsequent Procedures Final Outputs for ICANN Board Consideration.
- Draft GAC Advice Language for GAC Membership consideration on GAC priority topics and items marked as pending by the ICANN Board.
- ICANN Board Chair letter to GAC Chair on next steps relative to the new gTLD next round (23 May 2023)
- New gTLD Subsequent Procedures Operational Design Assessment
- New gTLD Subsequent Procedures ODA Community Webinar Slides

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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RDS/WHOIS and Data Protection Policy (incl. Accuracy)

Session 3

Contents

Session Objective

This session aims to discuss status and consider possible next steps for the GAC in relation to deliberations and implementation efforts aiming to establish a new WHOIS/Registration Data policy framework taking into account relevant Data Protection law.

The GAC will be briefed on latest developments and related policy concerns, in connection with:

- The proposed Registration Data Consensus Policy (EPDP Phase 1);
- The ongoing development of a Registration Data Request Services (previously known as the WHOIS Disclosure System) as a proof of concept of EPDP Phase 2 Policy Recommendations for a System for Standardized Access/Disclosure (SSAD);
- The recent activities related to privacy/proxy services, including the Cancún GAC Advice; and
- Dependencies on the scoping of possible future policy work regarding accuracy of registration data.

Leadership Proposal for GAC Action

1. **Consider progress in the design and development of the Registration Data Request Service (RDRS),** as reported by ICANN in recent webinars[1], including as it relates to the confidentiality of law enforcement requests[2], in light of success criteria to be proposed by the GNSO Council for consideration by the ICANN Board[3].

2. **Continue assessing the public interest impacts, including on the RDRS, of delayed implementation of the privacy/proxy services accreditation policy recommendations**, following previous GAC Advice to resume implementation of the Privacy/Proxy Accreditation Policy to deliver an accreditation program including a law enforcement disclosure framework. In the Cancún Communiqué, the GAC advised the ICANN Board to provide regular updates on this matter[4].

3. **Follow-up on the GAC's public policy concerns[5] regarding the proposed Draft Registration Data Consensus Policy** (EPDP Phase 1 Implementation), including: definition and proposed timelines to respond to urgent requests; collection and publication of reseller data; collection/publication of registration information related to legal entities; need for clear standards around implementation and enforcement; and implementation of a partial system resulting in a policy gap. The Implementation Review Team is currently considering ICANN's response to the public comment period closed in December 2022[6].

4. **Examine opportunities for advancing accuracy of registration data** in gTLDs, following the pausing of the Registration Data Accuracy (RDA) scoping team by the GNSO Council[7] due to dependencies on ongoing ICANN org activities. Recently, ICANN determined that "*a sufficient legal basis exist to proceed*" to conducting proactive contractual compliance audit(s) of registrars regarding validation and verification of registration data. Regarding analysis by ICANN of a sample of full registration data for validation and verification of contact data, further, more targeted outreach with European data protection authorities may be required.[8]

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[1] See materials and recordings of recent ICANN org webinars (16-17 May 2022)

[2] Per the GAC Advice to the ICANN Board in the Cancún Communiqué (20 March 2023) and the ensuing Clarification call between the GAC and the ICANN Board (11 April)

[3] See Proposed Success Criteria by the GNSO Small Team on EPDP Phase 2

[4] See Section V.3 p.11 of the GAC Cancún Communiqué (20 March 2023)

[5] See GAC Comments on the Draft Registration Consensus Policy for gTLDs (21 November 2022)

[6] See ICANN org's Addendum to the Public Comment Report (28 April 2023), starting p.40

[7] See GNSO Council Resolution 20221117-4 (17 November 2022)

[8] See ICANN org correspondence to GNSO Council (14 March 2023) and previously stated intention to engage with the European Data Protection Board (see ICANN letter of 2 June 2022 to the European Commission).

Current Status and Recent Developments

- **The policy foundations of a new Registration Data Policy regime** initially proposed to become effective before the end of 2024, **are expected to be further discussed** following ICANN's response to public comments received in December 2022**.**

  - ICANN published a proposed [Draft Registration Data Consensus Policy for gTLDs](24 August 2022) as developed by ICANN org with the EPDP Phase 1 Implementation Review Team (IRT), in response to the ICANN Board's [resolutions](adopting the policy) recommendation of EPDP Phase 1 (15 May 2019).

  - This Consensus Policy **would become part of ICANN's contractual requirements for Registries and Registrars within 18 months of its adoption** and replace the current [Interim Registration Data Policy for gTLD](20 May 2019) which currently requires Contracted Parties to continue to implement measures that are consistent with the [Temporary Specification](20 May 2018). **It would also introduce** [changes to existing ICANN Policies](which rely on, or relate to Registration Data, including the superseding of) the Thick WHOIS transition Policy and revisions of the implementation of the Registration Data Access Protocol (RDAP).

  - **The GAC provided input** at several stages of the developments leading to these proposals, including most recently on the resulting consensus policy proposal:

    - [Input to the ICANN Board](24 April 2019) before its consideration of the GNSO Policy Recommendations from EPDP Phase 1, in which the GAC deemed the "*recommendations to be a sufficient basis for the ICANN Community and organization to proceed - with all due urgency - to the completion of a comprehensive WHOIS model covering the entirety of the data processing cycle, from collection to disclosure, including accreditation and authentication, which would restore consistent and timely access to non-public registration data for legitimate third party interests, in compliance with the GDPR and other data protection and privacy laws*". The GAC also highlighted and referenced in this correspondence prior policy concerns it has expressed.

    - Advice to the ICANN Board in the [Montréal Communiqué](6 November 2019), to "*ensure that the current system that requires 'reasonable access' to non-public domain name registration is operating effectively*" ([accepted](by the ICANN Board on) 26 January 2020) and "*to ensure that the ICANN org and the EPDP Phase 1 Implementation Review team generate a detailed work plan identifying an updated realistic schedule to complete its work*", which were the subject of follow up in the GAC Communiqués of [ICANN70](,)[ICANN71](,)[ICANN72](), and [ICANN73](and related) interactions with the ICANN Board[9].

    - In the latest [GAC Comments](21 November 2022), **the GAC expressed public policy concerns with the proposed Draft Registration Data Consensus Policy for gTLD**

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[9] See Board GAC Advice Scorecards related to each Communiqué at:
https://gac.icann.org/activity/icann-action-request-registry-of-gac-advice

including: definition and proposed timelines to respond to urgent requests; collection and publication of reseller data; collection/publication of registration information related to legal entities; need for clear standards around implementation and enforcement; and implementation of a partial system resulting in a policy gap. **The GAC recalled these concerns** in the [Cancún Communiqué](#) (20 March 2023)[10]

- Based on consideration of input received from 14 community groups, **ICANN org updated the Draft Consensus Policy Language to reflect its analysis of Public Comments** (see [redline version](#) circulated to the IRT on 4 May 2023). ICANN org also provided [responses to public comments](#) (28 April 2023)
  - Regarding the timeline for response to Urgent Requests ICANN's Implementation Project Team (IPT) "*believes that the 24-hour response time accurately reflects the intent of the EPDP policy recommendations*" (see p.44 of Addendum and section 10.6 of updated consensus policy), but did not extend the definition of urgent requests to include "imminent or ongoing cybersecurity incidents"
  - Regarding the collection and publication of reseller data, "*the IPT believes that making any recommended changes is beyond the scope of the policy as it would create additional changes that are not required by the EPDP Phase 1 recommendations.*"
  - Regarding the policy's impact on Thick WHOIS,: "*The IPT, in consultation with the Implementation Review Team, concluded that ICANN org could enforce a transfer requirement only if the relevant contracted parties agree that a legal basis exists for the transfer and a data protection agreement is in place*"
  - Regarding the Phase 1/Phase 2A policy gap, ICANN org reached out to the GAC Small Group on WHOIS/EPDP with a [memo](#) (5 May 2023) which clarified that:
    - *The functionality of distinguishing between legal and natural persons is beyond the scope of the EPDP Phase 1 IRT*
    - *During the EPDP Phase 2A deliberations, the EPDP Phase 2A Working Group made a policy decision not to mandate the contracted parties to change their practices with regard to data of legal and natural person*s

- As part of EPDP Phase 1 Implementation, the conclusion of **Data Processing Agreements (DPAs) between ICANN and Contracted Parties** consistent with EPDP Phase 1 Recommendation 19, which the GAC referred to in its ICANN72, ICANN73, ICANN75 Kuala Lumpur and ICANN76 Cancún Communiqués, is identified in the [EPDP Phase 1 Implementation timeline](#) (last updated 3 April 2023) as standing at 79% completion.

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[10] See Issues of Importance to the GAC, Section IV.3 pp.7-8

- **Feasibility of a System for Standardized Access/Disclosure of Registration Data (SSAD) is now focusing on the implementation of the Registration Data Request Service** (formerly WHOIS Disclosure System), following the [GNSO's request for an SSAD proof of concept](#) (27 April 2022) on the basis of an ICANN org [Design Paper](#) (13 Sep. 2022) and [updates](#) (7 Nov. 2022) [suggested](#) by the GNSO Council to the ICANN Board (17 Nov. 2022).

  - The GNSO [resolution](#) on the EPDP Phase 2 Final Report (24 September 2020) **adopted the 18 recommendations that seek to establish an SSAD**, **requesting a consultation with the ICANN Board** prior to its consideration of the policy recommendations **to discuss "*questions surrounding the financial sustainability of SSAD and some of the concerns expressed within the different minority statements*"** including in the [GAC Minority Statement](#) (24 August 2020).

  - Prior to considering the GNSO's SSAD Policy Recommendations, **the ICANN Board [launched](#)** (25 March 2021) an **Operational Design Phase (ODP)** [to perform an assessment](#) of possible implementation parameters. A GNSO Small Team reviewed ICANN org's resulting [Operational Design Assessment](#) (25 Jan. 2022) in support of the GNSO Council's consultation with the ICANN Board and consideration of questions and concerns expressed in a [Board letter](#) (24 Jan. 2022).

  - In a [letter to the ICANN Board](#) (27 April 2022), **the GNSO shared concerns with ICANN's Operational Design Assessment** and called for a pause of the Board's consideration of the SSAD recommendations to allow for work to continue on a "proof of concept", in collaboration with ICANN org, who suggested it could propose a simplified "SSAD Light Design" in a [Concept Paper](#) (6 April 2022)[11]. The **ICANN Board** [confirmed](#) (9 June 2022) its **agreement and decision to pause the consideration of the policy recommendations**.

  - In the [The Hague Communiqué](#) (20 June 2022), while looking forward to the "*timely completion of the 'proof of concept'*", the GAC emphasized "*the importance of providing specific timelines and goals*" for this work and clarifying "*what will happen after the 'proof of concept' phase concludes*".

  - Shortly before ICANN75, ICANN org introduced a [WHOIS Disclosure System Design Paper](#) (13 Sep. 2022) the key features of which were considered in [GAC plenary](#) (20 Sep. 2022).

  - In the [Kuala Lumpur Communiqué](#) (26 September 2022), the GAC noted the proposed WHOIS Disclosure System is a **useful first step which would facilitate the collection of useful data**, to possibly shed light on usage rates, timelines for response, and percentages of requests granted or denied. The GAC also deemed **important to properly log Information about approvals or denials of requests**, timing of the response, and reasons for denial; **and to include a mechanism to allow for confidential law enforcement requests**.

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[11] The approach proposed by ICANN org in the SSAD Light Concept Paper was presented to the GAC during the [Pre-ICANN74 ICANN org's briefing to the GAC](#) on 31 May 2022 (*GAC website login required*)

- The **GNSO Council** adopted the [addendum](#) (7 Nov. 2022) to the SSAD ODA Small Team [Preliminary Report](#) (4 April 2022) and expressed being "***supportive of the request that the ICANN Board proceeds with the implementation of the Whois Disclosure System***" in the [GNSO Chair letter to ICANN Board Chair](#) (17 Nov. 2022) consistent with ICANN org's [WHOIS Disclosure System Design Paper](#) (13 Sep. 2022)

- On 27 February 2023, the ICANN Board [resolved](#) to **launch the implementation of the WHOIS Disclosure System**, or "Registration Data Request Service" per the associated [announcement](#) (2 March 2023).

- In the [Cancún Communiqué](#) (20 March 2023) **the GAC advised the ICANN Board to "*direct ICANN org to promptly engage with the PSWG to identify and advance solutions for confidentiality of law enforcement requests** so as not to preclude participation by law enforcement requesters when measuring usage of the WHOIS Disclosure System"*. This advice was eventually accepted by the ICANN Board per its [Scorecard of Board Action](#) (15 May 2023)

- Following discussion during the [Board/GAC Clarification call](#) (11 April 2023), the GNSO Small Team on EPDP Phase 2 hosted a [subteam meeting](#) (10 May 2023) dedicated to the **discussion of confidentiality of law enforcement requests between representatives of the GAC PSWG, ICANN org** and observers from the GNSO Small Team. A [follow-up discussion](#) is expected shortly before ICANN77 (5 June 2023)

- On 16 and 17 May 2023, ICANN held [two webinars](#) during which the user interface of the future Registration Data Request Service (RDRS) was presented and discussed by community members, including representatives from the GAC PSWG. The expected date of public launch of the RDRS is December 2023.

- **The work of the GNSO Scoping Team on Accuracy of Registration Data** remains paused, while ICANN org reports recent progress in its assessment of whether or not it has a legitimate purpose to request access to registration data records for purposes of accuracy verification.
  - The GNSO Council adopted substantive and procedural [instructions](#) for the Scoping Team (22 July 2021). In the [ICANN72 GAC Communiqué](#) (1 Nov. 2021) the GAC welcomed "*the effective start of the accuracy scoping exercise launched by the GNSO*" and expressed support for "*all four assignments*" of the team. The GAC nominated representatives from the European Commission and United States to participate in these [weekly deliberations](#) which started on 5 October 2021.
  - The work of the scoping team was informed by an [ICANN org briefing](#) (26 February 2021), an [ICANN org Memo on the WHOIS Accuracy Reporting System](#) (January 2022) and [ICANN org responses](#) to questions by the Scoping Team.
  - In the [ICANN72 GAC Communiqué](#) (1 November 2021) the GAC reiterated "*that maintaining accurate domain name registration data is an important element in the prevention and mitigation of DNS abuse*". The GAC also noted that it is "*looking forward to exchanging with other constituencies not only on the definition and measurement of accuracy but also on solutions on how to enhance accuracy. The GAC gives particular importance to the verification, validation and correction of all registration data by registrars, and certain registries, in line with their contractual obligations, and supports rigorous monitoring and enforcement of such contractual obligations by ICANN.*"
  - In the [ICANN73 Communiqué](#) (14 March 2022), the GAC highlighted that as part of the work of the scoping team to date, it "*has emphasized the importance of holding contracted parties accountable for their compliance with the existing accuracy requirements, as well as the importance of increasing transparency about compliance, in order to inform an evidence-based analysis of these issues*"
  - In May 2022, the **ICANN org shared with the Scoping Team** a [set of scenarios](#) **for which it planned to consult the European Data Protection Board** on whether or not ICANN org has a legitimate purpose that is proportionate (i.e. not outweighed by the privacy rights of the individual data subjects) to request that Contracted Parties provide access to registration data records for purposes of accuracy verification.
  - In its [preliminary recommendations](#) for the GNSO Council (2 September 2022) the scoping team recommended:
    - **A registrar Survey** be conducted on the status of accuracy of their domains under management (Recommendation 1). In the [ICANN74 Communiqué](#) (20 June 2022), the GAC noted that "*the voluntary nature of the survey [...] could limit the volume of feedback received*" and therefore encouraged "*the team to explore additional and complementary work items, such as testing accuracy controls in a manner that is not dependent upon access to personally identifiable data*". However, the preliminary report notes that "*[a]t this stage, the Scoping Team has not identified sufficient benefits of moving forward with any of the other proposals that do not require access to registration data [...]*".

- **A Registrar Audit** be considered regarding their procedures for determining the accuracy of registration data (Recommendation 2)

- **A pause of scoping team work in relation to proposals that require access to registration data** until feasibility is clearer (Recommendation 3) including through: ICANN org's outreach to the European Data Protection Board (EDPB), a possible Data Protection Impact Assessment to be conducted by ICANN, and the finalization of Data Processing Agreements between ICANN and Contracted Parties.

○ **GNSO Council adopted a** [motion](#) (17 Nov. 2022) **pausing the work of the scoping team and deferring consideration of the recommendations to conduct a survey and an audit** "*until such time the DPA negotiations between ICANN org and Contracted Parties have completed and there is feedback from ICANN org on if/how it anticipates the requesting and processing of registration data will be undertaken in the context of measuring accuracy, or for six months, whichever is the shorter*".

○ In a [GNSO Council letter to ICANN org](#) (1 December 2022), **ICANN org was requested to "*Proceed with both (i) your outreach to the European Data Protection Board and (ii) your work on a Data Protection Impact Assessment* in connection with the scenario(s) in which the request and processing of registration data takes place as a matter of urgency; *Finalize negotiations on the Data Processing Agreement (DPA) as soon as practicable*, as the absence of a completed DPA may act as a roadblock for the policy work before the GNSO Council."

○ In a [correspondence to the GNSO Council](#) (14 March 2023) ICANN org reported it has determined that "*a sufficient legal basis exist to proceed*" **to conduct proactive contractual compliance audit(s) of registrar compliance with registration data validation and verification requirements** (Scenario 2), while further, more targeted outreach with European data protection authorities may be required[12] regarding analysis by ICANN of a sample of full registration data for validation and verification of contact data (Scenario 3)

○ In the meantime, as reported in the [ICANN Specific Reviews Q1 2023 Quarterly Report](#) (31 March 2023):

- **Recommendations 4.1, 4.2 and 5.1 of the RDS-WHOIS2 Review Team** [Final Report](#) (3 September 2019) **relating to data accuracy monitoring and enforcement** (all identified as "High" priority) **remain in "Pending Board Consideration" status** in light of continued dependencies on Board consideration of the SSAD and the work of the Registration Data Accuracy Scoping Team.

- **Recommendation 9.2 of the SSR2 Review Team** [Final Report](#) (25 January 2021), for ICANN org to **proactively monitor and enforce contractual obligation to improve accuracy of registration data**, is currently **in "Pending Board Consideration" status and "likely to be rejected** unless additional information shows implementation is feasible" requires additional time before further consideration.

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[12] Consistent with ICANN's previously stated intention to engage with the European Data Protection Board (see [ICANN letter](#) of 2 June 2022 to the European Commission).

Reminder on the status of other policy development, policy implementation and Review recommendations pending further consideration

- **Policy Development in Phase 2 of the EPDP concluded** with the publication of a [Final Report](#) (31 July 2020), which recommended a System for Standardized Access/Disclosure (SSAD) to gTLD Registration Data with a significant level of divergence among stakeholders as documented in the Consensus Designations (Annex D) and Minority Statements (Annex E), including the [GAC Minority Statement](#) (24 August 2020).

  - **Consensus was achieved on** aspects of the SSAD relating to **accreditation of requestors and centralization of requests** (recommendations 1-4, 11, 13 and 15-17). Once implemented these recommendations should improve the current fragmented systems by providing a central entry point to request access to registration data, according to clearly defined standards, and providing guarantees of appropriate processing.

  - **Stakeholders could not agree on** the policy recommendations necessary to provide for **a System for Standardized disclosure** that meets the needs of all stakeholders involved, including public authorities (recommendations 5-10 and 12). Neither could stakeholders agree on the possibility to evolve the SSAD towards more centralization and more automation of disclosure decisions in the future. (recommendation 18)

  - In the [ICANN70 GAC Communiqué](#) (25 March 2021), the GAC Advised the ICANN Board "*to consider the [GAC Minority Statement](#) and available options to address the public policy concerns expressed therein, and take necessary action, as appropriate.*" The Board [accepted](#) the advice (12 May 2021) noting that "*standing on its own, the GAC's Minority Statement does not constitute consensus advice*", and included a detailed discussion of issues raised in the GAC Minority Statement on EPDP Phase 2.

  - The GAC issued a [response](#) (6 October 2021) to the Board's [clarifying questions](#) on the ICANN70 advice that were re-iterated before and discussed during the [GAC/Board ICANN71 Communiqué clarification call](#) (29 July 2021)

- **Policy Development in Phase 2A of the EPDP** to address the issues of **legal vs. natural persons** and the **feasibility of unique contacts** to have a uniform anonymized email address, **concluded** with the publication of a [Final Report](#) (3 September 2021), a subsequent ICANN [Board resolution](#) (10 March 2023) directing their implementation and recent clarification by ICANN org that "*it will ultimately be up to the technical community to determine [whether] a field will be created to distinguish between legal and natural persons.*"

  - The EPDP Team Chair presented the report as "*a **compromise that is the maximum that could be achieved** by the group at this time under our currently allocated time and scope, and it **should not be read as delivering results that were fully satisfactory to everyone***" underscoring "*the importance of the minority statements in understanding the full context of the Final Report recommendations*"

  - In its [Minority Statement](#) (10 September 2021), the GAC acknowledged "*the usefulness of many components of the Final Recommendations*" including:
    – *the creation of data fields to flag/identify legal registrants and personal data;*
    – *specific guidance on what safeguards should be applied to protect personal information when differentiating between the domain name registrations of legal and natural persons;*
    – *encouragement for the creation of a Code of Conduct that would include the treatment of domain name registration data from legal entities;*
    – *encouragement for the GNSO to follow legislative developments that may require revisions to the current policy recommendations, and*
    – *useful context and guidance for those who wish to publish pseudonymized emails.*

  - **The GAC** noted however that it **"remains *concerned that almost none of the Final Recommendations create enforceable obligations"* which *"fall short of the GAC's expectations* for policies that would require the publication of domain name registration data that is not protected [...] and create an appropriate framework to encourage the publication of pseudonymized email contacts with appropriate safeguards.*"

  - After adoption of these policy recommendations by the GNSO Council, the ICANN Board provided the [bylaw-mandated notification to the GAC](#) (9 Dec. 2021), in [response](#) to which **the GAC requested that the ICANN Board** "c*onsiders [...] the GAC Minority Statement in its entirety, as well as available options to address the outstanding public policy concerns expressed therein.*" (9 Feb. 2022).

  - On 10 March 2022, the ICANN Board [adopted](#) the Phase 2A policy recommendations and directed ICANN org to develop and execute an implementation plan for these resolutions.

  - In the [GAC Comments](#) on the proposed Draft Registration Data Consensus Policy for gTLD (21 November 2022), **the GAC expressed public policy concerns in connection with the implementation of EPDP Phase 1 recommendations without those of Phase 2A**, resulting in a partial system and a policy gap. In response, ICANN org reached out to the GAC Small Group on WHOIS/EPDP with a [memo](#) (5 May 2023) which clarified, inter alia, that "*it will ultimately be up to the technical community to determine [whether] a field will be created to distinguish between legal and natural persons*"

- **Privacy/Proxy Services Accreditation (PPSAI) Policy Implementation and related issues**

  ○ As of 15 February 2023, the PPSAI Implementation remains [on hold](#) with ICANN org planning to "*allocate resources and finalize a timeline to continue the implementation of PPSAI once the implementation of EPDP Phase 1 is finalized and the design criteria of the EPDP Phase 2 SSAD and Whois Disclosure System are sufficiently stable so that org and the community can identify what synergies can be leveraged with these projects and the PPSAI implementation.*". As part of EPDP Phase 1 Implementation, in the so called [Recommendation 27 Registration Data Policy Impacts Wave 1.5 Report](#) (23 February 2021), ICANN org conducted in depth analysis of the substantial impact of the Registration Data Policy requirements on the PPSAI recommendations, and invited the GNSO to consider whether updates of the latter are needed.

  ○ In the meantime, per the [ICANN Specific Reviews Q4 2022 Quarterly Report](#) (21 February 2023), **RDS-WHOIS2 Review Recommendation R10.1** (low priority, currently pending Board consideration[13]) for the ICANN Board **to monitor the implementation of the Privacy Proxy Services Accreditation (PPSAI) policy** recommendations, and to ensure that until it is implemented "*the underlying registration data of domain name registrations using Privacy/Proxy providers affiliated with registrars shall be verified and validated in application of the verification and validation requirements under the RAA*", addressed in Recommendation 19 of the [EPDP Phase 2 Final Report](#) (31 July 2020), is **expected to be subject to an assessment in Q1 2023** to inform Board action.

  ○ In the recent [GAC Comments](#) (16 November 2022) on the [proposed RDAP and Bulk Registration Data Access (BRDA) Contractual Amendments](#) the GAC argued that **"*commercial proxy services*" may need "*their own data element or entity role*" in RDAP responses**, "*in recognition of the purposes of the RDDS system and the evolving domain name industry*" and the need to include "*all entities inherent to the registrar's domain name registration data distribution channel*", when they exist, in RDAP query responses.

  ○ In the [Report of Public Comments](#) (16 December 2022), ICANN org acknowledged the GAC's input, noting that:
    – *The proposed RDAP Profile enables the publication of data elements of which the reseller is included.*
    – *ICANN org will continue to work with the ICANN community to identify how roles and entities are represented in RDDS as part of the policy development process and will work with the contracted parties to update the respective agreements as policies require*
    – *Issues specific to privacy and proxy services will be managed via the implementation of privacy proxy policy recommendations*

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[13] The status of all recommendations may be consulted in the ICANN Specific Reviews Q4 2022 Quarterly Report (published 21 Feb. 2023) starting p.28, along with further documentation at: https://www.icann.org/resources/reviews/specific-reviews/whois

○ In the [Cancún Communiqué](#) (20 March 2023) **the GAC advised the ICANN Board:**

    i. *To prioritize the assessment related to the pending RDS-WHOIS2 Review Recommendation R10.1 which called for the Board to monitor the implementation of the PPSAI policy recommendations, and all necessary steps to resume this implementation, consistent with the intent of the GAC's previous advice.*

    ii. *To regularly update the GAC on the status of activities related to privacy and proxy services.*

○ This advice was discussed during the [Board/GAC Clarification call](#) (11 April 2023) and eventually accepted by the ICANN Board as reported in the [Scorecard of Board Action](#) regarding the Cacún Communiqué (15 May 2023) which noted, at it relates to (i), that "*the assessment is in progress within the org*".

○ In the meantime, the [ICANN Specific Reviews Q1 2023 Quarterly Report](#) (31 March 2023) clarified that "*Recommendation 10.1 aims to provide better data quality and contactability of the underlying contact owner for registrations using affiliated Privacy or Proxy services by requiring registrars to verify and validate the underlying registration data of domain name registrations.*" and stated:

    – *Following further review, the 2013 Registrar Accreditation Agreement (RAA) already includes requirements for registrars to validate and verify registrant contact data of privacy services.*

    – ***ICANN org plans to resume the implementation of Privacy and Proxy Services Accreditation Implementation (PPSAI)***, *which will provide additional explicit requirements to verify and validate registrant contact data of both Privacy and Proxy Services, once the EPDP Phase 1 implementation is completed.*

Key Reference Documents

● [ICANN org Review of Public Comment](#) (28 Avril 2023) - starting p.40 - on the [Draft Registration Data Consensus Policy for gTLDs](#) (24 August 2022)

● GAC Advice in the ICANN76 [Cancún Communiqué](#) (20 March 2023), and the related
    ○ [Summary Notes](#) of the Board/GAC Clarification Call (11 April 2023)
    ○ [Scorecard of Board Action](#) regarding the Cancún Communiqué (15 May 2023)

● [ICANN Org Correspondence to the GNSO Council](#) regarding the Registration Data Accuracy Scoping Team (14 March 2023)

● ICANN Board [resolution regarding WHOIS Disclosure Implementation](#) (27 February 2023)

● [GAC Comments](#) (21 November 2022) on the [Draft Registration Data Consensus Policy for gTLDs](#) (24 August 2022)

- [GNSO Council Motion](#) (17 Nov. 2022) pausing work of the Registration Data Accuracy Scoping Team and deferring consideration of several recommendations for possibly up to 6 months.

- [Addendum](#) (7 Nov. 2022) to the SSAD ODA Small Team [Preliminary Report](#) (4 April 2022) regarding requirements for an SSAD proof of concept.

- [WHOIS Disclosure System ICANN Design Paper](#) (13 Sep. 2022)

- Accuracy Scoping Team [preliminary recommendations](#) to the GNSO Council (2 Sept. 2022)

- [Draft Registration Data Consensus Policy for gTLDs](#) (24 August 2022)

- [ICANN org Update to the Accuracy Scoping Team](#) on scenarios for EDPB engagement (9 May 2022)

- ICANN org SSAD [Operational Design Assessment](#) (25 January 2022)

- GAC Advice in the [GAC ICANN72 Communiqué](#) (1 Nov. 2021) and related ICANN Board [Scorecard](#) (16 January 2022)

- GAC Advice in the [GAC ICANN71 Communiqué](#) (21 June 2021) and related ICANN Board [Scorecard](#) (12 September 2021)

- GAC Advice in the [GAC ICANN70 Communiqué](#) (25 March 2021), related ICANN Board [Scorecard](#) (12 May 2021) and [GAC Response to ICANN Board Clarifying Questions](#) (16 Nov. 2021)

- [GAC Minority Statement](#) (24 August 2020) on EPDP Phase 2 [Final Report](#) (31 July 2020)

- [GAC Minority Statement](#) (10 Sept. 2021) on EPDP Phase 2A [Final Report](#) (3 Sept. 2021)

- [GAC Response](#) (6 October 2021) to [ICANN Board Clarifying Questions](#) (21 April 2021) on the ICANN70 GAC Advice regarding the GAC Minority Statement on EPDP Phase 2, as reiterated during the ICANN71 Communiqué clarification discussions.

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77
WASHINGTON, D.C.

GAC Meeting with the GNSO Council

Session 5

Contents

Session Objective

The GAC and Generic Names Supporting Organization (GNSO) meet at ICANN Meetings to discuss policy matters of interest to both parties.

The agenda for the session is scheduled to focus on an exchange on the following topics:

1. New gTLD Program Next Round
   a. GNSO Council Small Team discussions on outstanding items/involvement of GAC members.
   b. GAC/GNSO facilitated dialogue on Closed Generics
   c. GNSO Guidance Process on Applicant Support
   d. Implementation Review Team (IRT)

2. DNS Abuse Mitigation
   a. Contractual negotiations

3. WHOIS Disclosure System

4. Any other business

Talking Points & Questions

1. **New gTLD Program Next Round**

   a. **GNSO Council Small Team discussions on outstanding items/involvement of GAC**

   - The GAC is keen to take part in the ongoing discussions between Board and GNSO Council regarding some of the still outstanding topics, where the GAC has fed in comments in the past, inter alia in the GAC collective comment of June 1st 2021.
   - In this regard, the GAC is considering the following elements of potential GAC Advice:
     - Predictability: Proposed GAC Advice for consideration advises the Board to ensure equitable participation on the- Standing Predictability Implementation Review Team (SPIRT) by all interested ICANN communities, on an equal footing.

     - RVCs/PICs: Proposed GAC Advice for consideration advises the Board to ensure that any future RVCs/PICs need to be enforceable through clear contractual obligations, and consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties. The GAC Advises that additional mandatory or voluntary PICs should remain possible in order to address emerging public policy concerns.

     - Applicant Support: Proposed GAC Advice for consideration advises the Board to take steps to substantially reduce or eliminate ongoing ICANN registry fees to expand financial support for underrepresented regions.

     - GAC Consensus Advice and GAC Early Warnings: Proposed GAC Advice for consideration advises the Board to 1) not accept recommendation guidance 30.2 regarding the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to disincentivizing any such Advice being submitted after the finalization of the Applicant Guidebook, and 2) to adopt recommendation 30.6 with the inclusion of the compromise language submitted by the GAC noting "Government(s) issuing Early Warning(s) must include a written explanation describing why the Early Warning was submitted and how the applicant may address the GAC member's concerns *to the extent feasible*.

     - Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets: Proposed GAC Advice for consideration advises the

Board to 1) ensure that auctions of last resort are not used in contentions between commercial and non-commercial applications, and 2) to ban or strongly disincentivize private auctions.

- The GAC would be very interested in hearing the GNSO Council's reactions to these potential elements of GAC Advice, inter alia, also on which paths the GNSO Council sees feasible in order to address them in a timely manner.

b. GAC/GNSO/At-Large facilitated dialogue on closed generics

- On substance: Assuming an agreed Framework can be reached within the Facilitated Dialogue, and among the respective broader communities, what would be the expected policy process of the GNSO, and the timelines for the GNSO Council to complete the work?

- On process: The GAC is very keen to continue with similar arrangements in terms of fair representation of GAC, GNSO and ALAC during the potential subsequent policy development phase, and would be interested in the Council's views thereon.

c. Timeline of GNSO Council work

- The GAC welcomes an update from the GNSO Council on the timeline of the upcoming GNSO Council work on the Next Round of New gTLDs.

d. Applicant Support GNSO Guidance Process (GGP)

- The GAC welcomes GNSO Council input and exchanges on potential ways to increase participation in the Applicant Support Program from those regions that are still not represented, especially considering that in the previous program only 3 proposals were submitted.

- What criteria should be followed if there are more than ten qualifying applications?

e. Implementation Review Team (IRT)

- The GAC is keen to actively engage in the IRT, through its appointed Representative, and individual participants.

- On Substance: As noted, the GAC is in ongoing discussions with the Board and the GNSO Council regarding a number of outstanding topics. On the topic of Predictability and the SPIRT, while it was resolved in the SubPro Recommendations, the GAC has remaining issues that it will be raising with the Board.

- On Process: Given that the SubPro IRT is already beginning to address Predictability and the SPIRT topic, how do you see the interplay between

ongoing discussions, and the SubPro IRT's mandate of developing implementation guidance?

2. DNS Abuse Mitigation

a. <u>Contractual negotiations</u>
- Does the GNSO have a sense of what subject areas would be appropriate for subsequent targeted PDP's on DNS Abuse?
   - Are there intended mechanisms to solicit community input on these topics?
- If so, what would be priority/timing for these initiatives?
- How can the GAC best support/participate in these activities?

b. <u>GNSO Council Small Team Update</u>
- GNSO Council to provide an update, if applicable.

3. Registration Data Request Service (formerly WHOIS Disclosure System)

- The Board has agreed with the GAC on the importance of maximizing voluntary participation in the system, and noted that ICANN org is working on an outreach and engagement strategy, which includes collaborating with the GNSO Small Team. How does GNSO envisage such a strategy?
- The Board also noted that the ICANN org project team is engaging with PSWG members along with the GNSO Small Team to discuss a confidentiality feature that may increase the participation of law enforcement authorities. The GAC PSWG appreciates the collaboration with ICANN Org and the RDRS small group to resolve these issues and is encouraged by the progress made to develop and agree upon appropriate solutions.

AOB
- GAC Communique "Issues of Importance"
   - GAC to provide feedback on GNSO Council's response to ICANN76 Issues of Importance.

Further Information
Further information about the GNSO and its policy development process is available at http://gnso.icann.org/en/about. GNSO web site – https://gnso.icann.org/en

Background

With the pace of GAC participation in ICANN policy development activities changing in recent years, it has been observed that information sharing with various parts of the ICANN community is more valuable than ever to help GAC members understand the context of various DNS issues. At recent public meetings, the GAC has interacted with various community groups from the gTLD space including business, intellectual property and non-commercial interests. This meeting with the GNSO Council will continue that strategic communications approach.

The Generic Names Supporting Organization (GNSO) is a body within the ICANN community responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains. The GNSO is the largest Supporting Organization within the ICANN framework.

The GAC normally meets with the Chair and other members of the GNSO Council at each ICANN public meeting to discuss issues of common concern and identify methods for better cooperation. The current Chair of the GNSO Council is Sebastien Ducos. Vice Chairs are Greg DiBiase and John McElwaine. The GNSO Liaison to the GAC is Jeff Neuman. The GAC's point-of-contact to the GNSO is Jorge Cancio (Switzerland).

The GNSO is a "federation" of different stakeholder groups. It is made up of two "Houses" - one "house" for parties contracted to ICANN (Registries and Registrars) and a second "house" for other non-contracted parties – commercial and non-commercial interests.

The GNSO Council and the GNSO stakeholder groups have different roles within the GNSO. The Council undertakes the role of manager of the policy development process. The Council is populated by representative members of the various GNSO stakeholder groups and constituencies. Comparatively, the stakeholder groups themselves (including the Registry Stakeholder Group (RySG) and the Registrar Stakeholder Group (RrSG)) are focused on operational considerations, sharing information and helping their members understand the overall GNSO activities and responsibilities. Various stakeholder groups participate directly in policy development working groups.

Prior to ICANN Public Meetings, the leadership teams of both the GNSO Council and the GAC meet via teleconference to identify the most pressing issues that merit further face-to-face discussions at the upcoming meeting.

Document Administration

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DNS Abuse Mitigation

Session 8

Contents

Session Objectives

This session aims to continue GAC consideration of ICANN org and ICANN community initiatives to prevent and mitigate DNS Abuse. The GAC will be briefed on relevant developments and continue discussing possible efforts by the GAC to engage with the broader ICANN community to support enhanced contract provisions and possible policy development to better mitigate DNS Abuse.

Leadership Proposal for GAC Action

1. **Consider the development of a GAC Comment on the proposed Amendments of the Registry and Registrar Agreements regarding DNS Abuse taking into account discussions during the Pre-ICANN77 GAC Capacity Development Workshop** (to be held on Sunday 11 June), **input from the GAC Public Safety Working Group (PSWG), as well as input from the ICANN community more broadly.** The proposed amendments were recently published following negotiations between ICANN and Contracted Parties since late 2022[1]. In The Hague Communiqué (20 June 2022) the GAC stated that "*ICANN org is particularly well placed to receive public policy input from the ICANN community and negotiate updates to the standard Registry and Registrar Agreements.*"

2. **Discuss the scope of desirable policy development to improve DNS Abuse prevention and mitigation**, following the recommendation by the GNSO Small Team on DNS Abuse (7 October 2022) to initiate a policy development process on malicious registrations, and potential contractual negotiations on this matter, which should eventually be informed by findings of the recently launched Inferential Analysis of Maliciously Registered Domains (INFERMAL) project, to explore the drivers of malicious domain name registrations[2].

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[1] See ICANN CEO Blog "ICANN and Contracted Parties Negotiate About Improved DNS Abuse Requirements" on 18 January 2023 and Amendments to the Base gTLD RA and RAA to Modify DNS Abuse Contract Obligations public comment proceeding (29 May 2023)

[2] See ICANN OCTO Blog "New ICANN Project Explores the Drivers of Malicious Domain Name Registrations" on 25 April 2023

3. **Consider the status of Review Recommendations related to the mitigation of DNS Abuse** in particular in the [CCT Review Final Report](#) (8 September 2018) and the [SSR2 Review Final Report](#) (25 January 2021).

Current Status and Recent Developments

- **Proposed Amendments of the Registry and Registrar Agreements to Enhance DNS Abuse Mitigation Obligations**

  - Since ICANN66, **leaders of the GAC Public Safety Working Group have briefed the GAC** on the issue of DNS Abuse mitigation[3] including **measures available to registries and registrars to prevent DNS Abuse**, in particular the role of registration policies (including identity verification) and pricing strategies as key determinants of levels of abuse in any given TLD; as well as on **possible avenues to address DNS Abuse more effectively at the ICANN Board and ICANN org level**, such as the revisions of ICANN Contracts with registries and registrars, the enforcement of existing requirements, the implementation of relevant CCT and SSR2 Review recommendations, Privacy/Proxy Service Provider policy recommendations, the improvement of accuracy of registration data, and the publication of more detailed domain abuse activity data.

  - In recent Communiqués, the GAC highlighted "***the need for improved contract requirements to address the issue of DNS Abuse more effectively*** ([ICANN72 GAC Communiqué](#), 1 Nov. 2021) and proposed that "*Improved contract provisions could focus on the reporting and handling of DNS Abuse and enforcement of related contract requirements*" ([The Hague Communiqué](#), 20 June 2022). The GAC also stressed that ICANN is "*particularly well placed to negotiate improvements to existing contracts*" and "*to receive public input from the ICANN Community*".

  - During ICANN75, the **GNSO Small Team on DNS Abuse**, **discussed "gaps in interpretation and/or enforcement" of the current ICANN contracts** as later reflected in its [Recommendations to the GNSO Council](#) (7 Oct. 2022).

  - In the [Kuala Lumpur Communiqué](#) (26 September 2022) the **GAC recalled its "*support for 'the development of proposed contract provisions applicable to all gTLDs to improve responses to DNS Abuse'[4], for example those identified in the SSR2 and the CCT reviews*"**

  - In November 2022, the Registry and Registrar Stakeholder Groups [signaled](#) their **willingness to "*pursue possible enhancements to the DNS Abuse obligations* contained in [their] respective agreements with ICANN*", to which [ICANN org responded](#) (30 Nov. 2022) that it "*aligned on the proposed guideposts outlined in [the] letter for any negotiations*". These *guideposts* were provided in the Contracted Parties correspondence to ICANN as follows:

    - *The focus of the new provisions will be on DNS Abuse as set forth in the existing ICANN*

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[3] See material of GAC plenary sessions during [ICANN66](#), [ICANN68](#), [ICANN69](#), [ICANN70](#), [ICANN71](#), [ICANN72](#), [ICANN73](#) and [ICANN74](#).
[4] [ICANN70 GAC Communiqué](#), Section IV.1 p.5

contracts, and reinforced by the GNSO Small Team on DNS Abuse;

    – *The amendments will not include matters pertaining to website content abuses nor access to registration data; and*

    – *Any new provisions [...] will not seek to impose pass-through requirements on either group.*

○ In December 2022, the Registrar Stakeholder Group (RrSG) and Registry Stakeholder Group (RySG) formally **notified ICANN to initiate negotiations** to respectively "*incorporate baseline contractual requirements to Section 3.18 of the RAA for registrars to disrupt and/or mitigate Domain Name System Abuse*" and "*enhance the DNS Abuse obligations contained in the [Registry Agreement]*".

○ A recent **ICANN CEO** Blog (18 Jan. 2023) confirmed ongoing work "*to **define baseline obligations to require registries and registrars to mitigate or disrupt DNS abuse**"* expecting that this should "*aid ICANN's Contractual Compliance team in its enforcement efforts with registrars or registries who fail to adequately address DNS abuse.*" It also noted this would be an opportunity for the ICANN Community "*to discuss and determine if further obligations are required via a policy development process".* **The ICANN CEO aims "*to share drafts with the community before ICANN77".***

○ In the meantime, the GNSO's Business Constituency (**BC**) and Intellectual Property Constituency (**IPC**), and the At Large Advisory Committee (**ALAC**) requested (20 Jan. 2023) that "*community input is appropriately regarded, and to assist ICANN Org in its established role as an advocate for community needs and arbiter of the public interest".* In its response (27 March 2023), the ICANN Board stated that both "*ICANN Board and org have listened carefully to the community over the last several years regarding DNS abuse. Taking **this approach to make focused improvements to the Agreements, to add a clear obligation for registries and registrars to mitigate DNS abuse, will be an important building block in a longer journey that envisions potential policy discussions** open to the full ICANN community, **and potentially future negotiations** between the CPH and ICANN org.*"

○ In preparation for an update by Contracted Parties on the ongoing negotiations, a Pre-ICANN76 GAC Briefing on Contract Negotiation regarding DNS Abuse Mitigation (28 February 2023) [*GAC website login required*] GAC Topic leads **discussed possible improvements to existing contract provisions** towards better clarity and enforceability, **as well as possible areas for new contract provisions** as discussed in the ICANN Community (notably by the CCT and SSR2 Reviews) **including: financial and reputational incentives, thresholds of abuse and compliance triggers, best practices and centralized abuse reporting.**

○ In the ICANN76 Cancún Communiqué (20 March 2023), the GAC encouraged the ongoing negotiations "*to proceed expeditiously"* and noted that it "*considers that **continued efforts in this area will be required, including further improvement of contractual obligations and/or targeted policy development processes prior to the launch of a second round of New generic Top-Level Domains** (new gTLDs)."* In addition, the GAC

encouraged *"Contracted Parties and ICANN to further consider, inter alia, proactive measures as well as positive incentives for registries and registrars in future work on DNS abuse mitigation or disruption."*

○ In preparation for ICANN77, the GAC Underserved Regions Working Group (USRWG) organized two webinars to prepare newcomers and underserved regions GAC representatives to contribute to a future GAC Comment on the expected amendments of the Registry and Registrar contracts:

– [Pre-ICANN77 GAC Capacity Development Webinar on DNS abuse #1](#) (4 May 2023) discussed:
  ● When to address abuse at the DNS level
  ● An Overview and concrete examples of malware, botnets, phishing, pharming and spam
  ● ICANN's Role
  ● The Roles of Registrars and Registries
  ● The GAC's Role

– [Pre-ICANN77 GAC Capacity Development Webinar on DNS abuse #2](#) (22 May 2023) discussed:
  ● Overview of Contract Negotiations and Public Comment Process
  ● Development of GAC Public Comment – Process and Timeline

○ **ICANN org initiated a public comment proceeding** on the [Amendments to the Base gTLD RA and RAA to Modify DNS Abuse Contract Obligations](#) (29 May 2023) which were expected to be presented in a [ICANN77 Prep Week webinar](#) (30 May 2023). Among the various changes proposed to ICANN's contracts, the amendments include a **new requirement to promptly take appropriate mitigation actions against domains for which the contracted party has actionable evidence** demonstrating that the domains are being used for DNS Abuse. In addition to the [proposed contract amendments](#), a [draft ICANN Advisory](#) provides detailed explanation of the new provisions and sets expectations as to their interpretation.

○ During ICANN77, **the GAC is expected to discuss these amendments** in at least two settings **towards preparing a GAC Comment** (which will be due by 13 July 2023):

– [Pre-ICANN77 GAC Capacity Development Workshop on DNS Abuse](#) (Sunday 11 June)
– [GAC Discussion on DNS Abuse](#) (Wednesday 14 June)

- **Prospects of policy development regarding the prevention and Mitigation of DNS Abuse**
  - Per the ICANN69 GAC Communiqué (23 October 2020), "***From the GAC's perspective, the momentum has been increasingly building for concrete action** as the Community has progressively engaged in constructive dialogue to advance work on a shared goal, the mitigation of DNS abuse. Beginning with the recommendations from the CCT-RT and the SSR2 RT and continuing through several cross-community sessions and more recent work on a DNS Abuse Framework, **the GAC believes there is now a solid expression of broad support for concrete steps to be taken to address the core components of effective DNS abuse mitigation**".*
  - Since prior to the ICANN68 meeting, **the GAC Leadership has sought the establishment, in collaboration with the GNSO Council leadership, of a framework of possible community work and policy development to address DNS Abuse**. During the ICANN72 bilateral meeting between the GAC and the GNSO as reported in the ICANN72 GAC Minutes, the GAC Chair reiterated that DNS Abuse "*is a long standing issue of interest to the GAC and that the GAC is interested in advancing community discussions, driving progress and convergence of views prior to the launch of new gTLDs*" and added that "*the GAC looks forward to agreeing on how to handle community wide discussions on DNS Abuse mitigation (a PDP, CCWG etc)*"
  - On 31 January 2022 the GNSO Council formed a **GNSO Small Team on DNS Abuse** expected to determine "*what policy efforts, if any, the GNSO Council should consider undertaking to support the efforts already underway in the different parts of the community to tackle DNS abuse*".
  - In the GAC response (4 April 2022) to the GNSO's request for community input on DNS Abuse policy making, the GAC Chair suggested that in light of the fact that "*ongoing community efforts may produce beneficial initiatives and outcomes which may obviate the need for a PDP*", "*At this time [...] pursuing a PDP scoping exercise may be premature*".
  - In The Hague Communiqué (20 June 2022), the GAC stated that "***any PDP on DNS Abuse should be narrowly tailored to produce a timely and workable outcome***" to which the ICANN Board responded that it shares this view and is prepared to support the ICANN community in such pursuits[5].
  - **The GNSO Small Team recommended** in a Report to the GNSO Council (7 October 2022): **the initiation of a tightly scoped policy development on malicious registrations** (Rec. 1), **further exploration of the role of bulk registrations play in DNS Abuse** and measures already in place to address it (Rec. 2), **encouraging further work towards easier, better and actionable reporting** of DNS Abuse (Rec. 3), and possible work between Contracted Parties and ICANN Compliance regarding its findings on potential gaps in interpretation and/or enforcement of the current ICANN contracts (Rec. 4). The GNSO Council proceeded with recommended outreach to Contracted Parties regarding Rec. 3 and to Contracted Parties, the DNS Abuse Institute and ICANN Compliance regarding Recommendation 2 (6 January 2023).

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[5] See https://gac.icann.org/sessions/boardgac-interaction-group-bgig-call-31-august-2022 (31 August 2022) [login required]

- ○ **Regarding bulk registrations**, the [ICANN Compliance response to the GNSO Council](#) (22 February 2023) states that '*ICANN agreements and policies do not contain requirements or limitations related to registering domain names in bulk. As a result,* ***ICANN Contractual Compliance does not collect or track information on bulk registrations,*** *the potential role these may play in Domain Name System (DNS) abuse".* The [DNS Abuse Institute's response](#) (24 February 2023) proposed that "***research would need to be conducted to determine the scale of any issues related to [Bulk Domain Registration] prior to any policy work",*** and noted the relevance of the [Framework on Domain Generating Algorithms Associated with Malware and Botnets](#) developed by the RySG and the GAC PSWG. **The DNS Abuse Institute expressed support for payment-based approaches to fighting DNS abuse,** and **proposed that it would be worth "*to encourage Registrars to investigate all of the domains in a customer account where one is identified as malicious"***as part of "*sensible and practical options available to registrars that will reduce DNS Abuse [...] right now*", in addition to "*friction at the time of registration*"**.**

- ○ Based on further input received from Contracted Parties[6], **the GNSO Small Team on DNS Abuse concluded**, as part of its [Preliminary Findings Preliminary Finding on Bulk Registrations](#) (15 May 2023), that **"*this does not fall within the realm of Consensus Policy at the moment"*** to the extent that:
  - – *Complaints from single or multiple registrations are handled uniformly, without clarity on what might constitute bulk registrations warranting targeted reactions.*
  - – *The lack of a clear definition did not elicit a clear response.*
  - – *Other Know Your Customer tools are deemed more efficient in detecting potential abuse, and should warrant more attention.*
  - – *ICANN's recently started [Inferential Analysis of Maliciously Registered Domains (INFERMAL)](#) project seems to indicate a willingness from the org. to look into this matter and provide [...] better statistics and intelligence* [on this matter]

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[6] See correspondence from the [Contracted Parties House (CPH)](#), [Registry Stakeholder Group (RySG)](#) and [Registrar Stakeholder Group (RrSG)](#)

- **Status and implementation prospects of Specific Reviews recommendations related to DNS Abuse disruption[7]**
  - **The SSR2 Review delivered 63 recommendations** in its [Final Report](#) (25 January 2021) with a significant focus on measures to prevent and mitigate DNS Abuse.
    - The GAC considered a [Draft SSR2 Review Report](#) (24 January 2020) and endorsed many of the draft recommendations in a [GAC Comment](#) (3 April 2020). These were followed by [GAC Comments](#) (8 April 2021) on the final recommendations, and subsequent GAC Advice in the [ICANN72 Communiqué](#) (1 Nov. 2021) requesting follow-up action and further information on levels of implementation of certain recommendations, to which the ICANN Board [responded](#) (16 Jan. 2022), leading to further discussions during ICANN73[8], and communications by ICANN org to the GAC in a [letter](#) (18 March 2022) and a [follow-up email](#) (12 April 2022).
    - To date, per the latest [ICANN Specific Review Quarterly Report](#) (21 February 2023), based on 3 ICANN Board resolutions ([22 July 2021](#), [1 May 2022](#) and [16 November 2022](#)): **23 recommendations** are now **approved** (including 14 subject to prioritization for implementation), **30 rejected**, and **10 pending** further Board consideration.
    - **7 Pending Recommendations relating to DNS Abuse** - **12.1** (*DNS Abuse Analysis advisory team*), **12.2** (*structure agreements with data providers to allow further sharing of the data*), **12.3** (*publish reports that identify registries and registrars whose domains most contribute to abuse*), **12.4** (*report actions taken by registries and registrars to respond to complaints of illegal and/or malicious conduct*), **13.1** (*central DNS abuse complaint portal mandatory for all gTLDs*), **13.2** (*publish complaints data for third party analysis*) and **14.2** (*provide contracted parties with lists of domains in their portfolios identified as abusive*) - **are tentatively expected to be considered by the ICANN Board in Q3 2023**. In the relevant [Board Scorecard](#) (22 July 2021), the ICANN Board acknowledged "*the extensive community and ICANN org efforts currently going on around DNS security threats*" and directed ICANN org "*to evaluate how this grouping of recommendations, along with other recommendations that pertain to DNS security threats should be considered in a coordinated way*" and inform the Board's decision on next steps.
    - **In its recent discussion of ongoing contract negotiations on DNS Abuse, the GAC PSWG discussed[9] several SSR2 recommendations that have been rejected** by the ICANN Board per the [Board Scorecard](#) (22 July 2021) - **8.1** (*commission a negotiating team that includes abuse and security experts to renegotiate contracted party contracts*), **9.4** (*regular compliance reports enumerating missing tools*), **14.4** (*provide contracted parties 30 days to reduce the fraction of abusive domains below the threshold*) and **14.5** (*consider offering financial incentives*) - **for which the GAC acknowledged** in the [GAC ICANN72 Communiqué](#) (1 November 2021) "*the procedural bases for the Board's rejection*" **noting**, nevertheless, **"*the useful substantive aspects***

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[7] The status of all recommendations may be consulted in the [ICANN Specific Reviews Q1 2023 Quarterly Report](#) (31 March 2023) starting p.28, along with further documentation at: https://www.icann.org/resources/reviews/specific-reviews/whois

[8] See [ICANN73 GAC Minutes](#) p.13

[9] See [PSWG Conference Call](#) on 14 February 2023 [*GAC website login required*]

*of certain rejected recommendations, including those that aim **to provide ICANN org and ICANN Contractual Compliance with appropriate tools to prevent and mitigate DNS abuse***".

○ The **Competition, Consumer Trust & Consumer Choice Review Team's** [Final Report](#) (8 Sep. 2018) provided 35 recommendations. In the [Montréal Communiqué](#) (6 Nov. 2019), as clarified in subsequent [correspondence with the ICANN Board](#) (Jan. 2020), **the GAC advised the ICANN Board "*not to proceed with a new round of gTLDs until after the complete implementation* of the recommendations [...] that were identified as 'prerequisites' [14 recommendations] or as 'high priority' [10 recommendations]."** Several of the these recommendations are relevant to contract negotiations on DNS Abuse and were discussed recently by the GAC PSWG[10]:

  – **Recommendation 17** (*collect data about and publicize the chain of parties responsible for domain name registrations)* **was approved and implementation is complete** per its [Implementation documentation](#) as of 14 Sep. 2022.

  – **Recommendation 13** (*collect data on impact of registration restrictions* which the GAC noted "*would allow for more informed decision and policy making with regard to future standard registry and registrar contract provisions"*) and **Recommendation 20** (*assess mechanisms to report and handle complaints and possibly consider amending future standard Registry Agreements to require registries to more prominently disclose their abuse points of contact and provide more granular information to ICANN*) were approved in part per [Board Scorecard of 22 October 2020](#), and **their implementation is in progress with competition estimated between Q3 2023 and Q2 2024** according to the [ICANN Specific Reviews Q1 2023 Quarterly Report](#) (31 March 2023)

  – **Recommendation 14** *(incentives to adopt proactive anti-DNS Abuse measures)* and **Recommendation 15** *(negotiate amendments to include provisions aimed at preventing systemic use of specific registrars or registries for DNS Security Abuse, and establish thresholds of abuse for automatic compliance triggers)* which were placed **in pending status** per [Board Scorecard of 1 Mar. 2019](#) in consideration of ongoing community discussions on DNS abuse, **are tentatively expected to be considered by the ICANN Board in Q3 2023.** In the meantime, ICANN org is processing these recommendations along with other relevant Specific Reviews recommendations and advice to the Board.

○ The **RDS-WHOIS2 Review recommendations LE.1 and LE.2** which sought "*regular data gathering through surveys and studies to inform a future assessment of the effectiveness of RDS (WHOIS) in meeting the needs of law enforcement*" and conducting "*conducting comparable surveys and/or studies with other RDS (WHOIS) users working with law enforcement on a regular basis*" are now **considered to "*implemented to the extent possible*"** in connection with work of EPDP Phase 2 and 2A as well as the SSAD ODP, per the [Implementation Documentation](#) (11 October 2022)

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[10] See [PSWG Conference Call](#) on 14 February 2023 [*GAC website login required*]

- **Measures and initiatives to mitigate DNS Abuse by Registries and Registrars**
  - On 27 March 2020, ICANN org executed the proposed amendment of the .COM Registry Agreement which **extends contractual provisions to facilitate the detection and reporting of DNS Abuse to three-quarters of the gTLD namespace[11]**. Additionally, a binding Letter of Intent between ICANN org and Verisign lays out a cooperation framework to develop best practices and potential new contractual obligations, as well as measures to help measure and mitigate DNS security threats.
  - **In the context of the COVID-19 crisis Contracted Parties and Public Safety stakeholders** reported[12] on their collaboration to facilitate reports, their review and their referral to relevant jurisdiction through the adoption of a standardized form and the establishment of single point of contacts for relevant authorities. These efforts built on working relations established between law enforcement and registrars as well as the publication by the **Registrar Stakeholder Group** of a Guide to Registrar Abuse Reporting during ICANN67. This guide was updated (Jan. 2022) and endorsed by the **Registry Stakeholder Group**.
  - **Public Interest Registry (PIR)**, Registry Operator of .ORG and several New gTLDs launched the **DNS Abuse Institute** (17 February 2021). This initiative was presented to the GAC PSWG (3 March 2021). In the ICANN70 Communiqué, the GAC welcomed the launch of the DNS Abuse Institute and "*encouraged[d] community efforts to cooperatively tackle DNS Abuse in a holistic manner*". The DNS Abuse Institute has since released a Roadmap (14 June 2021), regularly discusses best practices, and developed an initiative to measure the use of the DNS for phishing and malware activities. During ICANN74, the GAC invited the DNS Abuse Institute to present Net Beacon (formerly known as the **Centralized Abuse Reporting Tool**), which it indicated it is developing in response to SAC115 and SSR2 Recommendation 13.1, and consistent with CCT-RT Recommendation 20.

- **ICANN Org's multifaceted Response[13] (now part of the DNS Security Threat Mitigation Program) and contractual enforcement**
  - ICANN org presented (22 July 2021) its DNS Security Threat Mitigation Program which aims to provide visibility and clarity over various DNS security threats related initiatives and projects, and allows for the formation and execution of a centralized strategy.
  - **ICANN's Office of the CTO** (OCTO) **and its Security Stability and Resiliency Team** (SSR) conduct research and maintain ICANN's expertise in DNS security for the benefit of the Community. It is engaged in cyber threats intelligence and incident response fora, and develops systems and tools to assist in identification, analysis and reporting DNS Abuse[14].

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[11] Such provisions include Specification 11 3b which had only been applicable to New gTLDs so far. As of March 2022, .COM totaled 161.3 million domains names registrations, which, excluding the 133.4 million ccTLD domains out of the 350.5 million domains across all TLDs, represent a 74% share of all gTLD domain registrations (see Verisign Domain Name Industry Brief of June 2022)

[12] See Contracted Parties presentations prior and during the ICANN68 meeting and PSWG briefing to the GAC during ICANN68.

[13] See ICANN CEO blog on 20 April 2020 detailing ICANN Org's Multifaceted Response to DNS Abuse

[14] During a GAC call on DNS Abuse Matters (24 February 2021), ICANN org provided updates on OCTO's DNS Abuse-related Activities, which included a discussion the definition of DNS Security Threats and DNS Abuse, Contracted Parties obligations, and updates on DAAR, DNSTICR, DSFI, KINDNS, and OCTO's efforts in the area of training and capacity building throughout the world

– In response to the COVID-19 crisis, OCTO developed the **Domain Name Security Threat Information Collection and Reporting (DNSTICR)** tool to help identify domain names used for COVID-19-related abuse and share data with appropriate parties. The GAC was initially [briefed](#) on this matter prior to ICANN68 (12 June 2020) and GAC Members have been invited to contribute to the linguistic diversity of the tool.

– Through its **Domain Abuse Activity Reporting (DAAR) platform**, ICANN has [reported monthly](#) since January 2018 on domain name registration and security threats behavior observed in the DNS[15]. In October 2021, ICANN org and the Registry Stakeholder Group reported on their agreement in principle[16] to leverage Registry-held registration data to provide registrar-level information in DAAR as [recognized by the GAC](#) in a letter to ICANN (21 February 2022). These changes were included in the [Proposed Amendments to the Base gTLD RA and RAA to Add RDAP Contract Obligations](#) (6 September 2022) which the GAC welcomed in its [Comments](#) (16 November 2022), and which are expected to undergo a 60-day voting period before ICANN Board consideration.

– OCTO supported the **DNS Security Facilitation Initiative Technical Study Group**, [launched](#) in May 2020 as part of the implementation of the [FY21-25 Strategic Plan](#), to *"explore ideas around what ICANN can and should be doing to increase the level of collaboration and engagement with DNS ecosystem stakeholders to improve the security profile for the DNS"*. Its [Final report](#) (15 October 2021) was [released](#) after 18 months of deliberations. ICANN org [indicated to the GAC](#) (16 Feb. 2022) developing an action plan accordingly. The [implementation process](#) and a [wiki page](#) to track progress was introduced to the community on 20 April 2022. During ICANN74, the GAC discussed the value of prioritizing recommendation E5 for the establishment of a **threat and incident information sharing platform** among relevant stakeholders in the ICANN community[17].

– A new project to be supervised by ICANN OCTO, [Inferential Analysis of Maliciously Registered Domains (INFERMAL)](#), aims to **systematically analyze the preferences of cyberattackers, including the use of domain names of certain registrars over others**, and possible measures to mitigate malicious activities across top-level domains (TLDs). This project is stemming in part from evidence gathered in the [Statistical Analysis of DNS Abuse in gTLDs](#) (9 August 2017)[18], suggesting that malicious actors may prefer registrars that provide low registration prices, accept specific payment methods, offer free application programming interfaces (APIs) for bulk registrations or avoid registrars that require certain information in the purchasing process.

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[15] Several stakeholders and ICANN initiatives have commented on the limitations of DAAR, in particular a [letter](#) from the M3AAWG to ICANN org (5 April 2019) and the [Draft Report](#) of the SSR2 Review Team (24 January 2020). The Registry Stakeholder Group who had also expressed concerns made recommendations in a [correspondence](#) to ICANN's CTO (9 September 2020).

[16] See RySG letter to ICANN (22 October 2021) and ICANN Blog (28 October 2021)

[17] Recommendation E5 *Incident Response* of the [DSFI-TSG Final Report](#) *(13 Oct. 2021)*: "I*CANN org should, together with relevant parties, encourage the development and deployment of a formalized incident-response process across the DNS industry that allows for interaction with others in the ecosystem. Such an effort should include incident-response handling as well as the protected sharing of threat and incident information"*

[18] This study was conducted as part of the CCT Review and a [GAC Comment](#) (19 Sept. 2017) was submitted on this report.

○ **Regarding Contractual Compliance enforcement** in its [blog](#) (20 April 2020), the ICANN CEO recalled: "*ICANN Compliance enforces the contractual obligations set forth in ICANN's policies and agreements, including the Registry Agreement (RA) and the Registrar Accreditation Agreement (RAA). ICANN Compliance also works closely with OCTO to identify DNS security threats [...] and associate those threats with the sponsoring contracted parties. ICANN Compliance uses data collected in audits [...] to assess whether registries and registrars are adhering to their DNS security threat obligations. Outside of audits, ICANN Compliance will leverage data collected by OCTO and others to proactively engage with registries and registrars responsible for a disproportionate amount of DNS security threats. Where constructive engagement fails, ICANN Compliance will not hesitate to take enforcement action against those who refuse to comply with DNS security threat-related obligations.*".

    – Following a prior **Contractual Compliance audit** of Registry Operators focused on DNS Infrastructure abuse which concluded in June 2019[19] , ICANN [reported](#) (24 August 2021) on the results of the audit on **Registrars' Compliance with DNS Abuse Obligations**: 126 registrars audited (managing over 90% of all registered domains in gTLDs); 111 registrars not fully compliant with requirements related to the receiving and handling of DNS abuse reports (RAA Sections 3.18.1 – 3.18.3); and 92 registrars took actions to become fully compliant.

    – On 9 March 2022, ICANN [announced](#) its rolling out of new reporting enhancing the visibility of complaint volumes and trends.

    – **A new round of audits for** 28 gTLD Registry Operators[20] running gTLDs that have not previously been audited in a standard full-scope audit, and which were found to have the highest abuse score as reported by publicly available Reputation Blocklists (excluding Spam), was [announced](#) on 13 April 2022 and concluded with the publication of the [Audit Report](#) on 16 September 2022. The GAC discussed the findings during its [plenary session on DNS Abuse during ICANN75](#) (20 September 2022).

    – As part of ICANN76 Prep Week, [Contractual Compliance reported on its activities](#) (28 February 2023)

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[19] See ICANN blog [Contractual Compliance: Addressing Domain Name System (DNS) Infrastructure Abuse](#) (8 November 2018) and [Contractual Compliance Report on Registry Operator Audit for Addressing DNS Security Threats](#) (17 September 2019)

[20] .africa .app .art .bar .best .blog .buzz .cat .cloud .club .com .coop .gift .icu .ink .istanbul .moe .one .ooo .org .ren .ryukyu .tel .tirol .xin 我爱你 (Xn--6qq986b3xl) .닷컴 (Xn--mk1bu44c) .Рус (Xn--p1acf)

Key Reference Documents

- [Amendments to the Base gTLD RA and RAA to Modify DNS Abuse Contract Obligations](#) (29 May 2023)

- [Inferential Analysis of Maliciously Registered Domains (INFERMAL)](#) announcement (25 April 2023)

- [ICANN Specific Reviews Q1 2023 Quarterly Report](#) (31 March 2023)

- [ICANN Specific Reviews Q4 2022 Quarterly Report](#) (21 February 2023)

- [RySG – RrSG Communication on DNS Abuse Disruption/Mitigation Obligations](#) (4 November 2022)

- [GNSO Small Team on DNS Abuse Report to the GNSO Council](#) (7 October 2022)

- [GAC Response to GNSO Request for Community Input](#) on DNS Abuse Policy Making (4 April 2022)

- [The Last Four years in Retrospect: A Brief Review of DNS Abuse](#) by ICANN org (22 March 2022)

- European Commission [Study on DNS Abuse](#) and its [Technical Appendix](#) (31 January 2022)

- SSR2 Review [FInal Report](#) (25 January 2021) and related [GAC Comments](#) (8 April 2021)

- ICANN [announcement](#) and [report](#) (24 August 2021) of the Audit on Registrars' Compliance with DNS Abuse obligations.

- SSAC [SAC115 Report](#) (19 March 2021), a proposal for an Interoperable Approach to Addressing Abuse Handling in the DNS

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Distribution	GAC Members (before meeting) and Public (after meeting)
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GAC Emerging Technologies Session

Session # 9

Contents

Session Objective

In planning discussions for the ICANN77 public meeting, GAC Members expressed a desire to identify and discuss topics involving new technologies that will influence or impact the DNS and the Internet in the future (e.g., alternative DNS root, blockchains, artificial intelligence, etc). The purpose of this session is to allow GAC members to identify and generally discuss the topics they wish to learn more about and agree on a framework for how these topics could be explored for the benefit of GAC Members - both intersessionally and during future GAC public meetings.

Session Agenda

During this GAC Members will have an opportunity to explore available information-sharing options and formats and to identify and prioritize the subjects they would like to learn more about during subsequent committee meetings and webinars.

Key Reference Documents

- ICANN Office of Chief Technology Officer (OCTO) - Web page - https://www.icann.org/octo
- OCTO Publications Page - https://www.icann.org/octo/publications

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GAC Wrap Up Session

Session 11 - GAC Meeting Wrap-Up

Contents

Session Objectives

Based on the GAC's productive experiences during the last several virtual meetings, a final GAC "wrap-up" session has been scheduled at ICANN77 to enable GAC delegates to conduct follow-up discussions regarding any timely topics or issues that arise during the meeting week. This additional flexible session time can be used by GAC Members to discuss specific follow-up or next-step activities that will require intersessional committee action. If needed, the session can also be used for Communiqué drafting activities.

GAC Action/Decision Radar

The GAC Action/Decision Radar tool (see https://gac.icann.org/activity/gac-actiondecision-radar) has now been in place for almost two years (since May 2021). Time permitting, GAC members will be asked to provide feedback on the tool and how it can be improved.

Public Meeting Feedback Time

Implementation of the "hybrid" meeting format for only the fourth time at ICANN77 - with a continued but moderated health and safety regimen - will, again, be a unique experience for many in-person and virtual attendees. Time permitting, meeting participants will express their thoughts and feedback about the meeting experience and share ideas about lessons-learned and improvements for meeting planning and implementation at ICANN78.

Possible Topic Follow-Up Time - ICANN77 to 78 Planning

Based on the GAC's experience during the previous virtual Public Meetings, time during this session has also been set-aside to enable GAC follow-up discussions regarding any timely topics or issues that may arise during the meeting week. This additional flexible time can also be used by GAC members to discuss specific follow-up activities that may be triggered during the meeting week.

Further Information

GAC Operating Principles -
https://gac.icann.org/operating-principles/operating-principles-june-2017

Document Administration

Title	ICANN77 GAC Session #11 Briefing - GAC Wrap-Up Session
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GAC Meeting with ICANN Board (and Prep Session)

Session 4 - GAC Preparation For Meeting with the Board
Session 7 - GAC Meeting with ICANN Board

Contents

Session Objectives

An ICANN Public Meeting creates the opportunity for the GAC to meet and interact with other ICANN groups, organizations and structures - enabling the committee to coordinate and resolve specific policy work and operational matters and to build channels of communication with other groups to address current issues of government interest and facilitate future informational exchanges. The GAC Meeting with the ICANN Board of Directors is one of those important opportunities. The 14 June GAC meeting with the ICANN Board will enable the GAC to share views and ask timely questions of Board Members on topics of importance to the committee.

Recent Developments

Recent GAC-Board Meetings have covered a range of subjects and topics that have mostly centered around formal questions the GAC submits to the Board about two to three weeks before the start of the ICANN Public Meeting. For some meetings, the Board presents a number of standard questions or session topics to community groups for them to respond to the Board.

No topics have been formally proposed by the Board to the GAC for the ICANN77 joint meeting, but recent Board-to-GAC correspondence offers insights on a couple of topics "ripe" for discussion.

On 26 April 2023, the Board Chair wrote to the GAC Chair and other community leaders regarding the "rebalancing of the ICANN Nominating Committee membership." In that correspondence the Board Chair noted that, "The ICANN community has been discussing for over 10 years the issue of the rebalancing of the ICANN Nominating Committee (NomCom)." Perhaps in anticipation of ICANN77, the Chair then asked the GAC to consider answering a

short list of questions (due 30 June 2023) to engage with the ICANN community to understand community views on what form future NomCom rebalancing could take. Those questions are listed elsewhere in this document to help you navigate this issue.

On 22 May 2023, the Board Chair wrote to the GAC Chair on the topic of the Final Report on the New gTLD Subsequent Procedures Policy Development Process. In that letter, the Board Chair reflected that a number of the GNSO's final report recommendations still needed to be resolved. Two of those key issues, GAC Consensus Advice and GAC Early Warnings are something that the Board has a particular interest in. Specifically, the Board Chair's letter seeks the GAC's views on this critical issue. Specific excerpts from that letter are provided in the next section of this briefing document.

GAC Members were asked via email and during the GAC ICANN77 Agenda Setting Calls on 20 April and 9 May to recommend any potential topics or questions to present to the Board at ICANN77. By 7 June, the GAC Leadership is scheduled to finalize what primary topic areas the committee wants to explore with the Board and to share them so that Board Members can prepare for the joint meeting scheduled for 14 June 2023.

As of 29 May, no topics - other than those identified in recent Board Chair correspondence had been identified to be shared with the ICANN Board. This document will be updated if/as additional topics are identified. In the meantime, the current preliminary proposed topics include the following:

I. Potential Board Topics/Questions for the GAC at ICANN77

Topic #1 – New gTLD Subsequent Rounds – GAC Topics of Importance

Background:

ICANN Board Chair Letter to GAC Chair (22 May 2023) - https://gac.icann.org/advice/correspondence/incoming/20230522/final-report-on-the-new-gtld-subsequent-procedures-policy-development-process.

Key Language:

> "Accordingly, the Board wishes to invite the GAC to discuss a clear path forward to supporting a Board decision regarding the recommendations on GAC Consensus Advice and GAC Early Warning, including how to address any GAC concerns during the implementation phase. Although all of the pending recommendations on GAC Consensus Advice and GAC Early Warning received full or partial consensus from the PDP Working Group, the Board understands that the GAC has concerns about their potential impact on the timing of GAC Consensus Advice. The Board also acknowledges diverse opinion within the GAC's membership on the proposal in Recommendation 30.4

to omit language on the "strong presumption" for the ICANN Board to accept GAC consensus advice, when it recommends that an application for a new gTLD should not proceed.

The Board notes that ICANN org suggested several options in the New gTLD Subsequent Procedures Operational Design Assessment (ODA), to address the GAC's concerns on this topic, including reaching consensus with the GAC on the provision and timing of future Advice and revising language in the Applicant Guidebook around the issue of "strong presumption," which the Board would like to suggest as a useful basis for initial discussions.

We look forward to receiving the GAC's views on this subject. The Board invites the GAC to indicate its preferred method and timeline for engagement and welcomes the opportunity to work together to resolve this important issue."

Topic #2 – ICANN Nominating Committee Rebalancing -

<u>Background</u>

ICANN Board Chair Letter to GAC Chair (26 April 2023) -
https://gac.icann.org/advice/correspondence/incoming/20230426/nominating-committee-nomcom-rebalancing

Key Quoted Language and Questions from the letter:

"The Chair then asked the GAC to consider answering a short list of questions (due 30 June 2023) to engage with the ICANN community to understand community views on what form future rebalancing could take. … Therefore, we kindly ask for your input on the following questions:

1. What does it mean to have a balanced NomCom at a point in time? For example, what criteria would you apply to measure or assess whether the NomCom is balanced? And further, how can one test whether or not the NomCom is balanced?
2. Do you support the view that the current composition of the NomCom needs to be rebalanced? Please explain why or why not.
3. How frequently does the balance need to be measured or assessed?
4. How do you suggest that the NomCom's composition be rebalanced?
5. Who should conduct this work, and how should it be conducted?
6. How would your community group prioritize consideration of this issue within your planning efforts?"

The full GAC will have an opportunity to discuss potential responses and messaging to the

Board on-site in Washington, D.C. during the ICANN77 planning session for GAC joint meetings scheduled on 12 June 2023.

Session Agendas

Session #4 - Monday, 12 June (1630 UTC) - Preparation for Meeting with ICANN Board

This public session will enable GAC Members to review, discuss and confirm proposed topics and any questions or messages the GAC plans to explore with Board members during ICANN77.

Session #7 - Wednesday, 14 June (1300 UTC) - GAC Meeting with ICANN Board

A preliminary meeting agenda for the joint meeting (as of 29 May) is:

A. Introductions
B. Discussion of ICANN Board Chair Topics
C. GAC Topics/Questions (shared in advance of meeting)
C. AOB
D. Closing

Further Information

Board-GAC Interactions -

- Within the ICANN multistakeholder community, the GAC has a fundamental relationship with the ICANN Board of Directors that is detailed in the ICANN Bylaws (see ICANN Bylaws Section 12.2(a)) and the Board-GAC meeting is a regular feature of every ICANN Public Meeting - https://www.icann.org/resources/pages/governance/bylaws-en/#article12
- From time-to-time, the GAC also hosts a meeting of the Board-GAC Interaction Group (BGIG) which is covered by a separate briefing document. For this meeting cycle, that meeting will take place on 6 June 2023. The GAC Chair will likely report to the GAC during ICANN76 on what was discussed during that recent meeting.

Topical Reference Documents -

- GNSO Final Report on the New gTLD Subsequent Procedures Policy Development Process - https://itp.cdn.icann.org/en/files/internationalized-domain-names-idn/phase-1-initial-report-internationalized-domain-names-expedited-policy-development-process-24-04-2023-en.pdf.

- GAC Comment on Subsequent Rounds for New gTLDs Draft Final Report Public Comment Proceeding - https://mm.icann.org/pipermail/comments-gnso-gtld-subsequent-procedures-final-outputs

-22apr21/attachments/20210601/6e13bf77/GACCommentFINAL-SubproFinalOutputsforIC ANNBoardConsideration-0001.pdf

- GAC Collaboration Google Document / *Draft GAC Advice - Subpro Final Outputs* - https://docs.google.com/document/d/1mb7Zmbg4XY7LeGRBMMJA_b-dPYXZ_Ge2j0uwtDP qYsQ/edit

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Distribution	GAC Members (before meeting) and Public (after meeting)
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ICANN77 GAC Schedule (as of 9-Jun-2023)

UTC+8	UTC+2	UTC	UTC-4	Sunday 11 June (Day 0)	Monday 12 June (Day 1)	Tuesday 13 June (Day 2)	Wednesday 14 June (Day 3)	Thursday 15 June (Day 4)	UTC-4
21:00	15:00	13:00	9:00		GAC-ALAC-GNSO Facilitated Dialogue Closed Generics (1/2) **[open to community]** (75 mins)	**5. GAC Meeting with the GNSO** (75 mins)	**7. GAC Meeting with the ICANN Board** (75 mins)	**10.c. GAC Communique** (75 mins)	9:00
21:15	15:15	13:15	9:15						9:15
21:30	15:30	13:30	9:30						9:30
22:45	15:45	13:45	9:45						9:45
23:00	16:00	14:00	10:00						10:00
23:15	16:15	14:15	10:15						10:15
23:30	16:30	14:30	10:30		**Break (30 mins)**	**Break (30 mins)**	**Break (30 mins)**	**Break (30 mins)**	10:30
23:45	16:45	14:45	10:45						10:45
0:00	17:00	15:00	11:00	**GAC Capacity Development Workshop on DNS Abuse (1/3)** (90 mins)	**1. GAC Opening Plenary** (90 mins)	GAC-ALAC-GNSO Facilitated Dialogue Closed Generics (2/2) **[open to community]** (90 mins)	**8. GAC Discussion on DNS Abuse** (60 mins)	**10.d. GAC Communique** (90 mins)	11:00
0:15	17:15	15:15	11:15						11:15
0:30	17:30	15:30	11:30						11:30
0:45	17:45	15:45	11:45				**9. GAC Discussion on Emerging Technologies** (30 mins)		11:45
1:00	18:00	16:00	12:00						12:00
1:15	18:15	16:15	12:15						12:15
1:30	18:30	16:30	12:30	**Lunch Break (90 mins)**	**Lunch Break (90 mins) GAC Leadership Meeting**	**Lunch Break (90 mins) GAC Leadership Meeting**	**Lunch Break (90 mins) GAC Leadership Meeting**	**Lunch Break (90 mins) [ICANN78 kick-off]**	12:30
1:45	18:45	16:45	12:45						12:45
2:00	19:00	17:00	13:00						13:00
2:15	19:15	17:15	13:15						13:15
2:30	19:30	17:30	13:30						13:30
2:45	19:45	17:45	13:45						13:45
3:00	20:00	18:00	14:00	**GAC Capacity Development Workshop on DNS Abuse (2/3)** (75 mins)	**2. GAC Discussion on New gTLD Program Next Round (1/2)** (75 mins)	**6. GAC Discussion on New gTLD Program Next Round (2/2)** (75 mins)	**10.a. GAC Communique** (75 mins)	**10.e. GAC Communique (if needed)** (75 mins)	14:00
3:15	20:15	18:15	14:15						14:15
3:30	20:30	18:30	14:30						14:30
3:45	20:45	18:45	14:45						14:45
4:00	21:00	19:00	15:00						15:00
4:15	21:15	19:15	15:15	**Break (30 mins)**	**Break (30 mins)**	**Break (30 mins)**	**Break (30 mins)**	**Break (30 mins)**	15:15
4:30	21:30	19:30	15:30						15:30
4:45	21:45	19:45	15:45		**3. GAC Discussion on WHOIS and Data Protection Policy (incl. Accuracy)** (60 mins)	**ICANN Board Listening Session on CEO Search** (90 mins) / *GNSO Guidance Process Applicant Support*	**10.b. GAC Communique** (90 mins)	**11. GAC Wrap-Up** (90 mins)	15:45
5:00	22:00	20:00	16:00	**GAC Capacity Development Workshop on DNS Abuse (3/3)** (90 mins)					16:00
5:15	22:15	20:15	16:15						16:15
5:30	22:30	20:30	16:30		4. GAC Prep Meeting with the ICANN Board (30 mins)				16:30
5:45	22:45	20:45	16:45						16:45
6:00	23:00	21:00	17:00						17:00
6:15	23:15	21:15	17:15			*Networking Cocktail* (90 mins)	*Networking Cocktail [Community Excellence Award]* (90 mins)	*Closing Cocktail* (90 mins)	17:15
6:30	23:30	21:30	17:30						17:30
6:45	23:45	21:45	17:45	*GAC Social Event [onsite]* (90 mins)	*Opening Reception* 17:30-19:00				17:45
7:00	0:00	22:00	18:00						18:00
7:15	0:15	22:15	18:15						18:15
7:30	0:30	22:30	18:30						18:30
7:45	0:45	22:45	18:45						18:45
8:00	1:00	23:00	19:00						19:00
8:15	1:15	23:15	19:15						19:15
8:30	1:30	23:30	19:30						19:30
8:45	1:45	23:45	19:45						19:45
9:00	2:00	0:00	20:00						20:00

Legend:
- GAC Plenary/Internal Sessions
- GAC Joint Sessions
- Community Sessions
- GAC Communique
- GAC Capacity Development Workshop

Official times for ICANN77 09:00-17:30 (UTC-4)
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ICANN Board Workshop [dates]