GAC/ICANN Board Communique Clarification Call - ICANN80 Communiqué
15 July 2024 - 1500 UTC

In the spirit of issue spotting and candid information exchange, these high-level summary notes are intended to reflect the general nature of the discussion during the GAC/ICANN Board Communique Clarification Call - ICANN80 Communique. Certain specific aspects of the meeting discussions are provided to enable understanding of the flow and context of the discussions.

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Contents

I. Introduction

Tripti Sinha (ICANN Board Chair), **Nicolas Caballero** (GAC Chair) and **Becky Burr** (ICANN Board) greeted the participants and reminded them that the purpose of these calls is for the ICANN Board to make sure it understands GAC Advice, in this case as issued in the GAC Kigali ICANN80 Communiqué.

Nicolas Caballero (GAC Chair) noted that the Board submitted 33 clarifying questions on the ICANN80 GAC Advice over the weekend, so GAC members and GAC leadership members did not have sufficient time to address and review these. Nicolas Caballero noted that the questions submitted are important and deserve thoughtful responses, and as such will require the GAC to meet internally to provide a unified response from the committee.

Tripi Sinha (ICANN Board Chair) thanked the GAC for a constructive and substantive discussion at ICANN80 as well as for its ICANN80 Communiqué which raises items of importance to the committee. On behalf of the Board, the Board Chair addressed a letter to the GAC Chair on 1 July 2024[1] sharing some initial considerations for the GAC to review in preparation for this call. The Board Chair further noted that the Board received the GAC's response on 8 July 2024[2], acknowledging that since this date further discussions took place between

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[1] [ICANN Board Chair letter on the ICANN80 Kigali GAC Communique and Initial Feedback for Consideration](#) - 1 July 2024
[2] [GAC Response to Board Letter on ICANN80 Kigali GAC Communiqué and Initial Feedback for Consideration](#) - 8 July 2024

Board members and GAC leadership which led to an additional set of clarifying questions to be submitted. Tripti Sinha noted that the GAC and the Board are similarly motivated to navigate the timing of the next round of new gTLDs to find palatable solutions for both parties.

Becky Burr (ICANN Board) flagged that this call is aimed to be the beginning of a conversation between the GAC to thoroughly review the advice submitted by the GAC and give it the attention it deserves. The Board is hopeful this conversation can be held in a timely manner, in order to start the Applicant Support Program (ASP) in November 2024 as intended.

Note on Board Clarifying Question(s):

Based on the breadth and substance included in the 33 clarifying questions submitted by the ICANN Board and the short turnaround time for GAC members to review them, it was agreed during the call that the GAC would meet as a full committee to provide the Board with responses as soon as feasible. As such, the GAC and Board agreed that this meeting would be aimed at clarifying some of the questions and positions from both parties, without providing finalized responses until a committee wide meeting is held.

All GAC advice referenced in these summary notes, and clarifying questions submitted by the Board can be found annexed in this document below.

II. Discussion of ICANN80 GAC Consensus Advice on the New gTLDs Applicant Support Program (ASP)

Discussion on GAC Advice §1.a.i pertaining to the first come first served basis for the ASP (see Annex I p.7)

Becky Burr (ICANN Board) reviewed the advice received from the GAC on the ASP, noting the Board's understanding that the GAC is requesting the Board to place applications for the ASP into a holding basket for 12 months and to subsequently evaluate them. The implication is that, in the case that the number of applications received for the ASP were to exceed the number of applications which can be supported at the planned level, then some prioritization criteria would need to be established to ensure parity among applicants from developing countries and underserved regions in developed countries. Becky Burr further noted that the Board understands the GAC's concern that applicants from underserved regions in developed countries would potentially have more resources to submit applications early and on a first come first serve basis, which might create disadvantages for those from underserved countries.

Becky Burr noted that the Board submitted multiple questions to the GAC on its advice pertaining to the ASP (listed in Annex I p.7), while noting that the overarching concern expressed by the Board is that the advice received would create affirmative harm for applicants, in particular from those in developing countries. She further noted that the ASP was designed for a 16-month duration to ensure applicants would receive early notice about ICANN support, and that with this confirmation and commitment from ICANN, applicants could seek additional forms of support (monetary or otherwise) in order to make their applications successful. The Advice submitted by the GAC would essentially reduce the 16 months to 4 months.

Nicolas Caballero (GAC Chair) asked for a clarification on the timing and why this Advice would reduce the timing to 4 months instead of 16 months.

Becky Burr (ICANN Board) responded that if the advice were accepted by the Board, the ASP would open in November 2024 but applications wouldn't be approved for a 12-month period, leaving 4 months until the planned launch of the next round. Becky Burr further noted that unless the GAC is asking for the next round launch to be delayed, this may not be in the best interest for applicants, especially those in underserved countries.

Regarding current efforts by the ICANN Board, Becky Burr stressed that it is focused on what can be done to ensure that applicants in developing countries are aware of the ASP program and new gTLD program more broadly, and specifically on engagement and outreach, that applicants understand the ASP is available, materials are accessible in the ICANN languages at the same time as the English version and the application template is simple and easy to fill. Ultimately the Board's priority is to focus on outreach in developing areas and on the assistance and facilitation of the application process to avoid any delays once applications are received. In the letter referenced by the Board Chair[3] the Board suggested to the GAC that the Board would commit to use its best efforts to find additional funding in the event that more than 45 applications were received and qualified for support.

As it relates to the Board clarifying questions, Becky Burr explained that the intent is to highlight that the Board doesn't believe that compressing the ASP timeline, as would be required by this advice, would help applicants in developing countries. The Board is prepared to commit to use its best efforts to find additional funding, but cannot commit to fund every application received which qualifies for funding since it is currently unclear how many applications would be received more broadly in the new gTLD program and therefore how much funding would be available, since general application fees are expected to fund the Applicant Support Program.

Christine Arida (GAC Egypt) expressed the difficulty in responding to Board questions on the spot during the call, noting that a GAC wide discussion is needed to inform a response.

Kavouss Arasteh (Iran), expressed surprise at the Board Chair's request for the GAC to withdraw its Advice (as noted in the 1 July letter), noting there is no precedent for this request. Kavouss Arasteh flagged that the GAC needs to maintain its integrity and follow due process, asking the Board to retract this request. He suggested that the GAC stand ready to address potential solutions with the Board while expressing his opinion that the next round of the new gTLD program should not be postponed based on the ASP which is one component of the program.

Tripti Sinha (ICANN Board Chair) responded reassuring GAC members that the Board's request to withdraw its Advice was not intended to question the privilege and importance of GAC advice and expressed apologies for any misunderstanding. The Board's intent was to initiate a conversation with the GAC to try to reach an agreement. Tripti Sinha noted that this discussion is already providing great insights and that the Board appreciated input in the hope of resolving these issues in a timely manner.

Becky Burr (ICANN Board) noted that the Board respects the GAC's processes and understands the GAC is in charge of its own decision-making and that based on recent conversations a solution should be found even via an efficient running of the Bylaws process between the Board and the GAC. Becky Burr further highlighted that the Board's concern with the timeline is due to the Board's current focus on releasing information to potential applicants as soon as possible. As such, Becky Burr flagged some potential

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[3] See footnote #1

suggestions for GAC consideration including GAC/Board Intersesional discussions to identify solutions, while the Board moves forward and publishes the next version of the ASP Handbook, which was intended to be final, with a reference to an ongoing discussion between the GAC and Board.

Gemma Carolillo (European Commission) responded that this needs to be further discussed within the GAC but underscored that it is clear that an ASP that foresees first come first served would not fulfill the purpose of the applicant support scheme. She noted this was reiterated several times by the GAC but not taken into account. Ultimately, the Applicant Support Program will need to work properly in order to fulfill its purpose.

Becky Burr (ICANN Board) responded that the Board recognizes the GAC expressed questions about whether a prioritization plan should be developed, but the Board did not understand the GAC was advocating for a prioritization plan to be developed. Becky noted the Board failed to communicate clearly on the outreach plan which is addressed in the next agenda item.

Discussion on GAC Advice §1.a.iv pertaining to the GAC Advice on the Outreach and Engagement Plan for the ASP (see Annex I p.11)

Becky Burr (ICANN Board) noted that the Board understands that ICANN's Outreach and Engagement Plan is a top priority for the GAC and recognizes the Board hasn't been fully responsive to this request from the GAC.

Tracy Hackshaw (Universal Postal Union) reiterated that the questions submitted by the Board were not discussed by the Committee and that some of the questions are particularly complex. On outreach and engagement, Tracy Hackshaw noted that GAC members expressed discomfort regarding the lack of clear targets. This explains the GAC advice being submitted at this stage, to ensure underserved applicants have a fair chance. Tracy Hackshaw highlighted that the GAC has no desire to delay the program but wants to ensure that underserved applicants have the best chance of being supported especially in the event the ASP is widely successful and more than 45 applicants qualify for support.

Becky Burr (ICANN Board) expressed understanding that the lack of concrete information on ICANN's Outreach and Engagement Plan is driving this advice.

Sally Costerton (Interim ICANN President and CEO) presented information on ICANN org's Outreach and Engagement Plan, in order to reassure GAC members on the strategy being used which is in line with GAC concerns. Sally Costerton offered to hold an additional call with GAC members in a few weeks to further review the full set of detailed in-country engagement plans. Sally Costerton noted that the basis of the Outreach and Engagement plan is to use this round to bring to ICANN stakeholders who are not currently part of the Multistakeholder Model, by seeking to operate a TLD. In order to achieve this, since these stakeholders are not part of ICANN at the moment, ICANN org needs to put together a detailed in-country plan which will be reviewed on this future call.

Sally Costerton (Interim ICANN President and CEO) noted that ICANN org has been carrying out high profile communications on Universal Acceptance for months, and has leveraged country data on on their level of Internet adoption, familiarity with IDNs, age profiles and profiles of the organizations which qualify for support, to help inform which countries may have the most potential applicants. Additionally, within the last 6 months ICANN has been doing specific outreach events in countries which may have applicants who meet the ASP criteria. The current priority countries for ASP Outreach were flagged by Sally Costerton as currently

including, but are not limited to, Brazil, China, Egypt, Ethiopia, India, Kenya, Mexico, Morocco, Nigeria, South Africa, Senegal, Saudi Arabia, Türkiye, and the United Arab Emirates. Additionally, Sally Costerton shared that ICANN org carried out specific paid media campaigns in specific countries and that based on the results of such campaigns, ICANN org is developing an outreach template for each country. Sally Costerton walked GAC members through a sample engagement matrix noting this information is not normally shared outside of the org since these are working documents, and showed that ICANN org is using stakeholder mapping by country to identify groups and organizations which may be interested in the program. In order to find these stakeholders, ICANN org will be using advocates within the ICANN community to help identify potential stakeholders in a collaborative manner (using ccTLDs, ALAC, GAC and other community members).

Sally Costerton noted that ICANN org will continue to report to the Implementation Review Team (IRT) and broader community on its Outreach and Engagement efforts for the ASP and New gTLD Program Next Round. There will continue to be monthly engagement activity reporting throughout the ASP. and proposed that what will inevitably transpire is that some audiences will respond much better than others, providing information for ICANN org to adapt its strategy accordingly.

Sally Costerton (Interim ICANN President and CEO) concluded by noting that the aim of this presentation was to show GAC members what was occurring behind the scenes, to show GAC members there is alignment between the GAC and ICANN org in terms of strategy, priorities and approach. She expressed hope that GAC members would be reassured by this presentation and encouraged GAC members to join a follow-up meeting in August to answer targeted questions on the Outreach and Engagement Plan.

Kavouss Arasteh (Iran) asked for the slides to be posted on the GAC website for more detailed review, and asked whether GAC members and other communities were consulted when developing the strategy presented by Sally Costerton.

Sally Costerton (Interim ICANN President and CEO) responded that GAC members were consulted on an informal basis by Global Stakeholder Engagement Regional Vice-Presidents who work with GAC members on an ongoing basis. Sally Costerton confirmed the slide deck could be posted on the GAC website.

Kavouss Arasteh (Iran) noted that in his view engagement should be done in a formal manner with GAC members and expressed concerns about some countries included as priority areas for the ASP noting some are fully developed and shouldn't qualify for applicant support. Additionally he noted there were few countries highlighted from Central Asia and Latin America.

Sally Costerton (Interim ICANN President and CEO) thanked Kavouss Arasteh for his input, noting this is a work in progress.

Tracy Hackshaw (Universal Postal Union) flagged that an issue from the previous round of new gTLDs lay in the fact that communication and outreach efforts focused on stakeholders already aware of ICANN. He noted that while GAC Members appreciate ICANN org attending Internet Summits and DNS Road Shows, it is important to note that potential applicants who are unaware of ICANN would not be present. As such, the Outreach and Engagement Plan needs to establish a way to reach out to them in other ways, including by collaborating with GAC representatives, ccTLDs, At-Large and other community members. Additionally, Tracy Hackshaw asked ICANN org to consider using the means of traditional media since many of the people the org is trying to reach may still be using traditional media (radio, talk shows, television, etc) noting a blanket approach would not be constructive due to particular circumstances based on regions and countries.

Sally Costerton (Interim ICANN President and CEO) agreed with Tracy Hackshaw's points, noting this is the reason ICANN org is looking at in-country approaches since blanket approaches or even regional approaches are not feasible to target potential applicants. Each country needs its own media plan creating a newsworthy story that's targeted at potential applicants in particular countries, in partnership with GAC members, ALAC, ccTLDs, ISPs and other ICANN actors.

III. Discussion on ICANN79 GAC Consensus Advice on Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs

Becky Burr (ICANN Board) expressed the Board's confusion on a part of the GAC Advice pertaining to auctions to resolve contention sets involving commercial application only. Becky Burr noted there is language in the GAC Advice noting the GAC is urging the Board to find alternatives to ICANN auctions to resolve contention sets where the only members of the contention set are commercial actors. This differs from previous GAC Advice and the Board would like to clarify the meaning of this language.

Nicolas Caballero (GAC Chair) and **Nigel Hickson** (United Kingdom) clarified that the GAC Advice language pertained to commercial and non-commercial members only.

Kavouss Arasteh (Iran) cautioned members not to paraphrase GAC advice but to focus on the exact wording included in the GAC Communiqué. Additionally, Kavouss Arasteh noted that the ICANN80 Kigali Advice item referenced does not supersede previous GAC Advice but complements it.

IV. Conclusion

In closing, **Nicolas Caballero**, **Becky Burr**, **Tripti Sinha,** shared their appreciation to the GAC and ICANN Board representatives for taking part in the call and for the constructive and valued dialogue.

Tripti Sinha (ICANN Board Chair) thanked GAC members for this valuable discussion and exchange of information. Tripti Sinha's takeaway is that the Board needs to provide more updates on operational progress and she will ensure that that continues to happen.

Nicolas Caballero (GAC Chair) thanked the Board Chair for her words and echoed GAC members who expressed that the GAC is not intending to delay the next round of the new gTLD program, but requires additional time to provide accurate and precise answers to the questions provided by the Board.

Annex I: ICANN80 GAC Advice, rationale and Board Clarifying Question(s)

<u>**GAC Advice §1.a.i**</u>

    a.   *The GAC advises the Board:*

          i.   *To take final decisions on successful Applicant Support Program (ASP) applicants, who applied within the twelve month time period, at the conclusion of that period as opposed to on a first come, first served basis. This would mean that no preference is given to applicants who applied earlier in the twelve month period, and will help ensure underserved regions are not at a disadvantage through the ASP.*

<u>RATIONALE</u>

The ASP application submission period is twelve months. In that time period, applications that are compiled and submitted earlier in the process should not be given an advantage over applications submitted later in the process. Giving applications submitted earlier in the window an advantage, in terms of earlier evaluation, could detrimentally impact organizations applying from underserved regions, who will likely take longer to prepare applications due to the need to access enhanced services, for example, translation services into their native languages, i.e. in languages other than the six (6) official United Nations languages. It will also take longer to raise awareness of the ASP and its benefits with those without existing connections to the ICANN community. The GAC wants to mitigate against a scenario where places for 'successful applicants' have been filled before applicants from underserved regions have had an opportunity to apply in the time period advertised.

Board Clarifying Question(s):

1. If the Board were to adopt this advice, the implementation of this advice would likely mean that applicants would have only 4 months - as opposed to the currently planned 16 months - to use ICANN's committed funding to secure further support, take advantage of non-financial support (e.g., capacity development, pro bono assistance), and prepare a new gTLD application. **Does the GAC believe that the risk that funds for applicants from underserved areas will run out outweighs the value of the 16 month timeline?**

2. There is currently no policy basis or guidance to prioritize support for some applications over others. Moreover, this issue was discussed and subsequently rejected by the GGP following community consultation. In its comments on the GGP report last September, the GAC acknowledged the difficulty of creating prioritization criteria. **Does the GAC believe that circumstances have changed since the conclusion of the GGP that the community could now develop consensus policy or guidance on this topic?**

3. Noting that the GAC acknowledged the difficulties that setting up a prioritization exercise would entail, **has the GAC identified criteria by which applications for support should be evaluated in the scenario that more applicants qualify for support than ICANN has budgeted?**

4. The Board has committed to use best efforts to secure additional funding if the number of qualified applicants exceeds 45. In response, the GAC has asked the Board to *"commit to identifying additional funding in the event that more than 45 qualified applications for applicant support are identified and provide such support"*. **Is the GAC asking the ICANN Board to obligate a future board to uncapped expenditures to support all qualified applicants?** Given the lack of reliable information

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regarding the size of the new gTLD applicant pool, the number of qualified applicants for support, and the current volatility of the DNS industry, **how could such a commitment comport with prudent management principles and the board fiduciary obligations?**

5. We have reviewed all of the GAC's statements on this matter going back four years, as identified in the [Chair's recent letter](#) to Tripti Sinha. We agree with the assertion that the GAC has consistently called for measures to support diverse applicants, and in particular to engage and support qualified applicants from underserved regions. We also believe that the Board has committed to do just that by directing Org to carry out an aggressive campaign, including in underserved regions, to raise awareness of the program and to simplify the application process to the maximum extent possible. In its comments on the recommendation 7 regarding allocation of funds among qualified applicants in the GGP report in September of last year, which did not include prioritization, the GAC said:

   "While the GAC supports the recommendation as written and the committee understands the choice made to follow the principle of fairness and not carry out a prioritization exercise between applicants in case of inadequate funding, it is important to be aware of the risks that the fairness approach implies. … Governments understand the difficulties that setting up a prioritization exercise would entail, but wonder whether it is not worth the effort to discuss this further."

   Notwithstanding the GAC's acceptance of the GGP recommendation, we now understand that the GAC is now advising the Board to reject that recommendation. If so, **is the GAC saying that the if the Board cannot accept the GAC's advice to prioritize applications from underserved regions, it should delay publication of the ASP Handbook in its current form and, understanding the impact this will have on the timeline for launch of the ASP, initiate the Bylaws process to seek a mutually acceptable solution and, if none is available, formally reject the GAC advice. Is that correct?**

6. The ICANN Bylaws do entitle the GAC to provide advice contrary to the outcome of a multistakeholder policy development process in which it has participated, including to change its mind about policy recommendations that it has supported. That said, **the GAC has known about the outcome of the GGP process for at least a full year. Is there a reason that the GAC waited until Kigali to issue this advice?** Understanding the timing might help us resolve this issue.

GAC Advice §1.a.ii

    a. *The GAC advises the Board:*

        i. *To invite members of the community with relevant expertise to monitor and participate in the ASP Application Evaluation process that will result in final decisions on ASP application outcomes. The GAC signals its willingness to fully participate in this process.*

RATIONALE

Given that members of the community have continued to express a high level of interest in the delivery of an ASP that facilitates global diversification of the new gTLD program, the GAC is of the view that applicants through the program, and the program itself, would benefit from having non-conflicted members of the community, including the GAC, monitor and participate in the ASP Application Evaluation process.

Board Clarifying Question(s):

1. Could the GAC clarify **what it intends by "monitor" and "participate in" the ASP evaluation process?**

2. The SubPro evaluation process laid out in the SubPro ODA intentionally pivoted to the use of expert evaluators. **Is the GAC suggesting that the ASP evaluation design should revert to the 2012 approach when the SARP was made up of volunteers?**

3. By "participate," **is the GAC suggesting that it - or its individual members - are willing to pass judgment on applications?**

4. The ASP criteria are designed to be as objective as possible, in line with Recommendation 27.2 of the SubPro PDP Final Report. **Given that the criteria are public, what is the benefit of having community and GAC monitors?**

5. Bearing in mind that implementing **this advice significantly increases the risk of legal challenges** regarding a participant's or monitor's independence or expertise, **what standard should be applied to determine whether a GAC or community member is non-conflicted? What criteria should be used to determine whether a participant/monitor has relevant experience?**

6. Keeping in mind that increased risk could materially increase the new gTLD application fee across the board, **does the GAC believe that the contribution of community participants/monitors would outweigh the increased cost associated with defending against legal challenges?**

7. **How does the GAC envision community members' involvement vis-a-vis maintaining business confidentiality for ASP applicants in the evaluation process?**

8. In the GAC's recent letter to Tripti Sinha, the GAC stated that it wished to brief the evaluator on the *GAC's objectives for the ASP*. The independent evaluator will be tasked with reviewing applications for support based on objective, transparent criteria developed by the community. **Are the GAC's objectives for the ASP not aligned with the evaluation criteria? Does the GAC want to convey its views on how applications should be prioritized?** If that's the case, **the Board is uncertain how a**

> briefing on the *GAC's priorities* can be reconciled with the neutral application of objective criteria. **Can you provide information that would help us understand this request?**

> 9. Bearing in mind that implementing this advice would directly impact the ASP launch timeline, scheduled for the end of this year, **does the GAC believe that the contribution of monitors would outweigh the downside of compressing the ASP timeline?**

GAC Advice §1.a.iii

  a. *The GAC advises the Board:*

    i. *To initiate a facilitated dialogue, involving representatives from the GAC, GNSO and the ALAC, to assess the feasibility of leveraging (including contracting and financing the services of) a platform to which new gTLDs, supported through the ASP, could move to eventually operate their own back-end services.*

RATIONALE

The Board has issued several useful questions to the GAC on the GAC's previous ICANN79 Advice to "explore the potential of leveraging (including contracting and financing the services of) a platform to which new gTLDs, supported through the ASP, could move to eventually operate their own back-end services". In order to develop a response to these questions with completeness, and duly considering the views and expertise of the wider multistakeholder community, the GAC proposes engaging in a dialogue with representatives from the GNSO and ALAC to assess the feasibility of this and to potentially develop a proposal, in a timely manner, for a way forward.

Board Clarifying Question(s):

  1. Could the GAC clarify **what is meant by "a platform to which new gTLDs, supported through the ASP**, could move to eventually operate their own back-end services"? **Is this intended to serve as a capacity building platform? Is the GAC asking ICANN to provide subsidized back end services to supported applicants?** If so, **how would that enable supported applicants to transition to their own back end?** Or is the GAC contemplating something else?
  2. Noting that the GAC is calling for creation of a platform that enables supported applicants to move "eventually" to operate their own back-end services, **did the GAC intend that such a platform be in place before launch of the Next Round?** Is this **something that could be undertaken down the road so as not to delay the launch of the Next Round?**

GAC Advice §1.a.iv

    a. *The GAC advises the Board:*

        i. *To develop a report outlining the results and outputs of the Engagement and Outreach Plan according to the stated timeline i.e.*
- *May 2024: Launch Awareness Campaign (including priority outreach to underserved regions).*
- *June 2024 (ICANN80): Stakeholder Consultations*
  - *Conduct stakeholder consultations to gather feedback on the ASP's design and eligibility criteria.*
  - *Engage with potential applicants to understand their needs, challenges, and expectations regarding the ASP.*
  - *Use feedback to refine ASP guidelines and communication materials.*

RATIONALE

The GAC appreciates the publication of the 'New gTLD Program: Next Round Engagement and Outreach Plan', which included a high-level plan for outreach on the Applicant Support Program. The GAC looks forward to receiving the itemized costs, detailed scope and clear metrics of success (including specific targets) to accompany the plan. In that regard, the GAC appreciates the Key Performance Indicators (KPI) published that will be used to assess program success after implementation, and looks forward to receiving associated KPI targets that will be used to measure ongoing progress in real-time as the program is implemented. The GAC believes that such an approach can only be of positive benefit to the success of the ASP, and would allow for course corrections as deemed necessary during implementation, as opposed to waiting until the end of the program to conduct an assessment.

Board Clarifying Question(s):

1. Org is preparing and will publish a timeline that provides the "who, what, when" of its outreach and engagement plan. The team is establishing a monthly reporting cadence for activities and outcomes to be presented for community discussion and feedback, beginning 60 days from now. The monthly reports will be based on the KPIs presented and discussed in Kigali and over the course of recent discussions with the community. Additionally, once the program is launched, regularly scheduled meetings between the ICANN staff leading the engagement/outreach program and the IRT ASP sub track will provide an ongoing opportunity for all interested community members, including the GAC, to monitor progress, provide feedback, and suggest course corrections. **What additional reporting is the GAC requesting?**

2. **Should we assume that the bullet points are intended to reflect the level of detail that the GAC would like to see or do they reflect actual tasks that the GAC wants org to undertake?** If the latter, we will need additional information. For example, the ASP's design and eligibility criteria have already been the subject of a public consultation. We received comments from ICANN stakeholders, including the GAC. **Is the GAC suggesting that additional community consultations are required and/or that eligibility criteria should be further modified?** Shouldn't the guidelines be fixed before publication of the ASP Guidebook? **Shouldn't the eligibility criteria be fixed prior to publication of**

the Guidebook and launch of the ASP? How will potential applicants know what to do if the criteria and guidelines are a continuously moving target?

3. In its recent correspondence, the GAC asked for budgetary figures matched with planned activities. We understand that the GAC would like to be in a position to advocate for additional funding resources if it feels they are needed. **We believe that the question should be "is org doing enough of the right kinds of things" and not "how much money is ICANN spending on this." What additional value does the GAC derive from knowing how much each activity costs?**

GAC Advice §2.a.i

    a. ***The GAC advises the Board:***

        i. ***To prohibit the use of private auctions in resolving contention sets in the next round of New gTLDs.***

RATIONALE

The GAC notes the Board Resolution of 8 June 2024 as well as the update provided by the Board on its current thinking about resolution of contention sets in relation with the ICANN77 Washington D.C. GAC Consensus Advice:

1. *To take steps to avoid the use of auctions of last resort in contentions between commercial and non-commercial applications [...]*
2. *To ban or strongly disincentivize private monetary means of resolution of contention sets, including private auctions.*

Pursuant to GAC Consensus Advice regarding the use of private auctions, noting the recent Board resolution and discussions between GAC, ALAC and other parties during ICANN80, the GAC has concluded that private auctions should be prohibited for the next round of New gTLDs.

The GAC further notes that according to its resolution, the Board intends to take an action that is potentially inconsistent with the above GAC Consensus Advice concerning auctions of last resort in contentions between commercial and non-commercial applications.

In this regard, and with a view to identifying alternative means to resolve such contention sets, the GAC advises that before taking a decision and engaging in a potential Bylaws-mandated process with the GAC, the Board initiates a focused community-wide discussion, including ALAC, GAC and other parts of the community, in order to identify, inter alia, possible ways forward consistent with the GAC Consensus Advice.

Board Clarifying Question(s):

1. The Board understands the GAC is advising the Board to ban the use of private auctions in any contention set in the Next Round of the New gTLD Program. **The Board has previously agreed that private actions will be prohibited. Is the GAC advising the Board to do something else?**

2. Regarding the GAC's previous advice regarding resolution of contention sets involving commercial and non-commercial applications, the Board resolved on 8 June 2024 to initiate the Bylaws-mandated Board-GAC Consultation process for the GAC's ICANN77 Washington, D.C. Communiqué advice item 4.a.i. We understand that the GAC is now asking, as part of its rationale for this advice item, for the Board to conduct a broader discussion with the community. As proposed in the Board Chair's letter of 1 July 2024, the Board would like to proceed with this community consultation in parallel with this GAC Advice Process, in order to minimize any potential delays in the implementation timeline for the Next Round. **The Board expects that the newly-requested community consultation and GAC Advice Processes may inform each other**, as the Board seeks to both address the ICANN80 advice and find a mutually acceptable solution for advice item 4.a.i from the ICANN77 advice.

3. With respect to the Bylaws mandated discussions with the GAC, **the Board proposes to move more expeditiously than might be the case in other situations in order to minimize any impact on the schedule.** Accordingly, the Board is planning to resolve this issue no later than its September meeting

GAC Advice §2.a.ii

    a.   The GAC advises the Board:

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

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2. *To ban or strongly disincentivize private monetary means of resolution of contention sets, including private auctions.*

Pursuant to GAC Consensus Advice regarding the use of private auctions, noting the recent Board resolution and discussions between GAC, ALAC and other parties during ICANN80, the GAC has concluded that private auctions should be prohibited for the next round of New gTLDs.

The GAC further notes that according to its resolution, the Board intends to take an action that is potentially inconsistent with the above GAC Consensus Advice concerning auctions of last resort in contentions between commercial and non-commercial applications. In this regard, and with a view to identifying alternative means to resolve such contention sets, the GAC advises that before taking a decision and engaging in a potential Bylaws-mandated process with the GAC, the Board initiates a focused community-wide discussion, including ALAC, GAC and other parts of the community, in order to identify, inter alia, possible ways forward consistent with the GAC Consensus Advice.

Board Clarifying Question(s):

1. The GAC Advice issued after ICANN 77 called on the board to To take steps to avoid the use of auctions of last resort in contentions between commercial and non-commercial applications. **Is the GAC expanding its ICANN 77 advice?** In other words, **is the GAC now advising ICANN to find alternatives to ICANN auctions in all cases, including in contention sets between two or more commercial players?**

2. If so, can you explain **what public policy interest is served by banning ICANN auctions to resolve contention sets involving purely commercial actors?**

3. Auctions are a simple and well understood mechanism that is deployed by governments globally to resolve contention for scarce resources such as spectrum. **Why does the GAC object to the use of ICANN auctions to resolve purely commercial contention sets?**

4. If so, the methodology of ICANN's auction of last resort was discussed in detail during the PDP WG, but no consensus was reached. **What new information is available that would result in a different outcome compared to the deliberations that were held during the SubPro PDP that did not result in consensus?**

5. If so, the Board has discussed, for example, the possible use of ICANN auction proceeds in the event additional applicant support is needed. **In the GAC's view, does the public policy interest in banning ICANN auctions to resolve purely commercial contention sets outweigh the benefits of (i) relying on a simple and well understood mechanism that is deployed by governments globally to resolve contention and (ii) increased opportunities to support applicants from underserved areas needing financial assistance?**

6. *Assuming that the GAC is not changing its advice from ICANN 77 regarding alternative means to resolve contention sets between commercial and non-commercial applicants:*

   ● **Can auctions be used to resolve contentions sets including two or more *non-commercia*l applicants?**

   ● **Can you articulate the public policy principle that is being served by this recommendation?**

   ● **Is the GAC assuming that the balance of power between a commercial and a non-commercial applicant always disadvantages the non-commercial applicant?**

7. To ensure there are no delays to the AGB timeline, the Board believes all high-level decisions on contention resolution need to be made no later than the Board's workshop from 6-8 September 2024. Accordingly, the Board will undertake a compressed consultation during August. We have asked org to arrange for one or more 90 minute webinars in August to hear ideas from the community, including the GAC and ALAC. **Does the GAC agree with the Board's proposed condensed consultation, so that the timeline for the Applicant Guidebook and therefore the opening of the next round?**

Annex II: ICANN80 GAC Follow-up Advice on Applicant Support Program (ASP)

<u>**GAC Follow-up Advice Text**</u>

The GAC stated in its ICANN79 San Juan Communiqué Advice (Advice 1.a.ii) that the communications and outreach strategy for the ASP "must include details on building awareness of Universal Acceptance and Internationalized Domain Names and must leverage community connections to ensure underserved regions are reached". Therefore, the GAC looks forward to receiving detailed plans on these core aspects of the ASP by mid-Q3 2024 (August 2024).

The Board also accepted the ICANN79 GAC advice (Advice 1.a.iii) for ICANN to undertake an assessment of the appropriate budget to support the ASP and the associated communications and outreach strategy. As part of its scrutiny, the GAC requests that ICANN provide specific budgetary figures matched with planned activities for the ASP communications and outreach strategy, not necessarily including the estimated fees ICANN will use for the public relations firm it will hire to support ASP outreach, by mid-Q3 2024 (August 2024).

Additionally, the GAC requests a session by mid-Q3 2024 (August 2024) with the relevant ICANN org ASP and Outreach, Engagement and Communications leads to discuss the communications and outreach strategy and the financial plan that will support the ASP. This should be arranged well before stakeholder mapping is finalized and a grassroots campaign is launched, so that the GAC has an opportunity to comprehensively review and provide feedback on these plans ahead of implementation.

<u>**Board Clarifying Question(s):**</u>

1. Could the GAC elaborate on what additional detail it would like to see on UA and IDNs in relation to the ASP?

2. ICANN org has already shared the overall ASP funding plan with the community and has also shared the overall communications and outreach strategy for which resources across the org are being made available. As there is no separate communications and outreach strategy for ASP as this is embedded in the overall plan, it is not possible to provide specific budgetary figures that match with planned ASP activities. Can the GAC help the Board understand what the GAC is specifically looking for and/or what concerns it is aiming to address?

Annex III: ICANN80 GAC Follow-up Advice on Urgent Requests for Disclosure of Registration Data

<u>**GAC Follow-Up Advice Text**</u>

The GAC takes note of the letter sent by the Board to the GNSO Council concerning the "Dialogue with GNSO Council on EPDP Phase 1 Recommendation 18 (Urgent Requests)". The GAC appreciates the acknowledgment from the Board that "the proposed timeline whether one, two, or three business days - does not appear to be fit for purpose" and that "a much shorter response timeline, i.e., minutes or hours rather than days, would seem to be more appropriate" for situations that pose an imminent threat to life, serious bodily harm, critical infrastructure, or child exploitation. The GAC appreciates that, in the absence of authentication and validation, it may be difficult for registrars to determine whether requestors are who they claim to be.

It is the GAC's understanding that the GNSO needs to provide input on the next steps, building on the Board's conclusion that "the proposed urgent response policy is not fit for purpose and must be revisited".

The GAC urges the GNSO Council and the Board to take any necessary steps in an expeditious manner to "establish a clear process and a timeline for the delivery of a policy on Urgent Requests for domain name registration data", given the vital public safety interests related to such requests, as per the ICANN79 San Juan GAC Advice.

Appreciating that input from Law Enforcement Authorities will be needed to address some of the Board's concerns, the GAC stands ready to contribute to the work of the GNSO in relation to possible solutions for authentication of requestors via the work of the Public Safety Working Group, which has already started. The GAC highlights, however, that discussions on the authentication of Law Enforcement Agency requestors and on the response time for Urgent Requests should proceed in parallel and commence before ICANN81, to address the issue of Urgent Requests as soon as possible.

<u>**Board Clarifying Question(s):**</u>

1. The GAC indicates that discussions on authentication should proceed "in parallel and commence before ICANN81." The GAC also acknowledges the necessity of law enforcement involvement in discussions around authentication and indicates that work within the PSWG has already started. Can the GAC clarify the scope of the policy development it is recommending to occur in parallel? In particular, given the dependency on working out issues around authentication, could the GAC identify which area(s) of policy development it envisions could progress absent this information?

VI. Meeting Participants

GAC

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Alfonso Besada, Brazil
David Bedard, Canada
Rida Tahir, Canada
Jose Hernandez, Cayman Islands
Wang Lang, China
Thiago Dal-Toe, Colombia
Christine Arida, Egypt
Gemma Carolillo, European Commission
Martina Barbero, European Commission
Rudy Nolde, Germany
Samatha Scotland, Guyana
Kavouss Arasteh, Iran
Adriano Daddario, Italy
Wahkeen Murray, Jamaica
Zeina Bou Harb, Lebanon
Belaid Nouar, Morocco
Myo Swe, Republic of the Union of Myanmar
Marco Hogewoning, Netherlands
Aderonke Adeniyi (Sola-Ogunsola), Nigeria
Ana Neves, Portugal
Deolindo Costa, São Tomé and Príncipe
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Jakub Kuban, Slovakia
Ana Maldonado, Spain
Ken-Ying Tseng, Chinese Taipei
'Esau Tupou, Tonga
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Gloria Katuuku, Uganda
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