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**MINUTES OF MEETING**

**ICANN78 Annual General Meeting, 21-26 October 2023**

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## 1. MEETING ATTENDANCE & MEMBERSHIP

74 GAC Members and 8 Observers attended the meeting.

GAC membership currently stands at 93 Member States and Territories, and 8 Observer Organizations. A list of ICANN78 GAC meeting Member and Observer attendees is provided in [Attachment 1 - ICANN78 Hybrid Policy Forum - GAC ATTENDEES LIST](#).

The ICANN78 GAC Communiqué is published on the GAC website at: <https://gac.icann.org/contentMigrated/icann78-hamburg-communicue>

Presentations used by speakers during the meeting and supporting briefings prepared for the GAC can be accessed from the GAC website at <https://gac.icann.org/agendas/icann78-hybrid-meeting-agenda>

Full transcripts for each meeting session are to be made available from the ICANN78 Public Meeting website, via the relevant agenda items on the GAC's website agenda page listed above.

### 1.1. Opening Plenary Session

GAC Chair Nicolas Caballero welcomed GAC participants to ICANN78 in Hamburg, Germany to celebrate ICANN's 25th Anniversary since its inception led by experts and enthusiasts who shared a common vision and passion for the DNS and digital technologies.

The GAC Chair noted that since 1998, ICANN has grown and evolved into a global platform that brings together businesses, academia, civil society, registries, registrars and governments to exchange ideas, experiences and best practices on how to harness the potential of the DNS Industry for the benefit of all. The GAC Chair thanked the local hosts and the German Government for their generous support and hospitality, and introduced Benjamin Brake, Director-General for Digital and Data Policy in the Federal Ministry for Digital and Transport.

Benjamin Brake, Director-General for Digital and Data Policy in the Federal Ministry for Digital and Transport welcomed GAC members in Hamburg noting this is the second time an ICANN meeting is held in Germany. Benjamin Brake further noted that Germany was one of the founding 25 member countries of the GAC, leading to the current number of 182 governments and 38 observer organizations which constitute the GAC today. He expressed the sentiment that the GAC has stood the test of time and shows legitimate representation of governmental stakeholders within the ICANN ecosystem. He noted that the Internet is global and that is why digital policy must also be global. The German government is developing a strategy for international digital policy to shape a rule-based digital order with partners that promote democracy, prosperity and resilience to digital societies. The German government continues to advocate for a global, open, free and secure Internet based on the multistakeholder model. GAC members were invited to join the welcome reception hosted by the German government, and Benjamin Brake wished GAC members a productive ICANN78 meeting.

The GAC Chair provided an overview of the GAC's agenda for ICANN79 and GAC Support provided an overview of the meeting logistics and technical capabilities for the week. Notable information was shared for both in-person and virtual attendees.

GAC delegates and all attendees (both in-person and remote) then subsequently introduced themselves in the committee's traditional "tour de table" ceremony.

The GAC Chair and GAC support reminded GAC attendees of the production process for the GAC Communiqué, including the final 72-hour review period in place after the completion of the Cancun meeting.

GAC Support announced the results of the 2023 GAC Vice Chairs Elections, and thanked GAC representatives for their interest in serving in these important roles. Eight (8) candidates came forward for the five (5) slots available. Close to  $\frac{2}{3}$  of GAC membership took part in the voting process which was overseen by the GAC Chair.

Based on the votes cast, the elected 2023 GAC Vice Chairs are:

- Nigel Hickson (United Kingdom) (2nd term)
- WANG Lang (China) (2nd term)
- Zeina Bou Harb (Lebanon) (2nd term)
- Christine Arida (Egypt) (1st term)
- Thiago Dal-Toe (Colombia) (1st term)

Official one-year Vice Chair terms start after ICANN79 and continue until the end of ICANN82.

## 2. PUBLIC POLICY AND SUBSTANTIVE ISSUES

### 2.1. New gTLD Program Next Round

The GAC discussed recent developments pertaining to the new gTLD program next round, and specifically focused on topics that the ICANN Board identified as “pending”, as well as status updates on the Implementation Review Team (IRT), the Facilitated Dialogue on Closed Generics and the GNSO Guidance Process (GGP) on Applicant Support.

On **closed generic gTLDs**, GAC Topic Leads presented recent communication submitted by the ALAC and GAC Chairs jointly to the ICANN Board, as well as the GNSO Chair’s letter to the ICANN Board, outlining the joint decision on behalf of the three chairs to halt the work due to fundamental issues identified via public comment which would need to be resolved before a final framework on closed generics could be approved. GAC members discussed advice to be submitted to the ICANN Board noting the GAC’s position that closed generic gTLDs should not proceed in the next round of new gTLDs since no policy recommendations have been developed.

On **the Implementation Review Team (IRT)**, the GAC representative on the IRT and ICANN org presented recent developments pertaining to this effort. GAC members were encouraged to join this effort, which is open for participation by ICANN community members without membership limits and to reach out to the GAC representative on the IRT for any questions or comments on this work. ICANN org outlined that it is anticipated for the Board to take action on the 13 pending recommendations from the Subsequent Rounds of New gTLDs Final Report (SubPro PDP WG Final Report) at ICANN78.

On **priority topics pertaining to new gTLDs**, GAC Topic Leads reviewed topics of interest to the GAC as outlined in recent GAC advice and issues of importance from ICANN77, outlining recent Board actions and responses to GAC advice.

On **predictability**, the GAC reiterated the importance for the Board to take steps to ensure equitable participation in the proposed Standing Predictability Implementation Review Team (SPIRT) by all interested ICANN communities, on an equal footing.

On **RVCs/PICs**, at ICANN77 the GAC advised the Board to ensure that RVCs/PICs are enforceable through clear contractual obligations, and that consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties. The GAC further noted that additional mandatory and voluntary PICs should remain possible for future New gTLDs in order to address emerging public policy concerns. The Board has accepted most items of GAC advice on this topic, and GAC topic leads noted that some of these items are still pending further discussion and are therefore considered deferred by the Board until further engagement with the GNSO Council and further cross community engagement has occurred. GAC members were encouraged to continue to follow Board actions on this topic.

On **GAC Advice and GAC Early Warnings**, the GAC took note of the Board’s decision to accept Recommendation Guidance 30.4 of the SubPro PDP WG Final Report which notes the removal of language regarding possible changes to Section 3.1 of the 2012 Applicant Guidebook which states that GAC Consensus Advice “will create a strong presumption for the ICANN Board that the application should not be approved.” GAC members noted surprise at the rapidity with which the Board proceeded to accept this recommendation language, following intersessional engagement between the GAC and the Board. GAC members had proposed to soften the language rather than omitting it altogether, noting the political importance of this language which went beyond legal implications listed by ICANN org and the Board. GAC members articulated concerns to the Board about the GAC’s position in the upcoming round of new gTLDs, specifically expressing

concern that the omission of this language will ultimately relinquish some of the importance of GAC advice on new gTLD applications. GAC members urged the Board to consider a potential path forward to further engage with the GAC on the political dimension expressed about this specific language, and to ensure the GAC is not in a more fragile position in the next round of new gTLDs when it comes to the weight of GAC advice to the ICANN Board on new gTLDs applications.

Regarding **Auctions of Last Resort**, the GAC reaffirmed its view that they should not be used in contentions between commercial and non-commercial applications. In addition, the GAC reiterated that private monetary means of resolution of contention sets should be banned or strongly disincentivized, to prevent applications under false pretenses for monetary gain. Other means, like drawing lots, may be used to resolve contention sets. GAC topic leads noted that the Board has accepted one recommendation pertaining to Auctions of Last Resort, which is not directly linked to the items the GAC issued advice on. The Board has responded to the GAC's ICANN77 advice noting that recommendations are still under discussion and that the Board defers action until such a time as those deliberations are completed.

On **Applicant Support**, the GAC welcomed efforts to take forward a successful Applicant Support Program I (ASP) in various areas of the ICANN community, including through the IIRT's work and the GNSO Guidance Process Working Group (GGP) on the ASP. The GAC thanked the GGP on the ASP for the opportunity to provide a public comment and looks forward to receiving the group's final report expected in December. The GAC also looks forward to participating in the IRT sub-track on applicant support and the 'small team plus' effort to address The Final Report on the new gTLD Subsequent Procedures Policy Development Process' Recommendation 17.2 on the ASP. The ASP is core to the success of the next new gTLD program and the GAC recalls that the original rationale to launch a new round was to encourage further geographic diversification of applications in the gTLD program.

Applicant support was identified as a key topic of importance to the GAC, particularly for underrepresented and underserved regions during the ICANN78 capacity development workshop. GAC members noted the need for ICANN org to effectively communicate with GAC members about the ASP so that members can support awareness raising efforts within their countries. GAC members also highlighted the importance of using local languages to raise awareness of the program. The GAC stressed that support for applicants should extend beyond applicant fee reductions, and include providing training and technical and legal assistance to potential applicants. Training efforts should be commenced at the earliest opportunity, and certainly ahead of ICANN79. In this regard, the GAC appreciated exchanges with the GNSO and the ALAC on applicant support, in particular the comment that the ASP should cover "not just financial support but support in other areas of both the application and the operation of a top-level domain" and the ALAC's proposal to address Recommendation 17.2 by taking a "holistic approach to providing applicant support services" and utilizing an ASP incubator.

The GAC welcomed the ICANN Board's commitment to the ASP and thanked the Board for its valuable input on the ICANN77 GAC advice on the ASP. The ICANN Board stated that it plans to provide communications and engagement plans related to engaging underrepresented and underserved regions by ICANN78 and the GAC looks forward to receiving documented plans at the earliest opportunity, including on the mini-campaigns noted at the GAC's meeting with the Board and on how ICANN intends to support the operation of supported TLDs. The GAC Small Team on the ASP is continuing discussions to provide relevant information to the Board, noting the GAC's engagement through the IRT ASP sub-track will help address these useful points and recalling the GAC's previous work to agree parameters on underserved regions.

## 2.2. WHOIS and Data Protection Policy (incl. Accuracy)

Topic leads from the GAC Small Group on WHOIS/EPDP/GDPR reminded the GAC of the importance of this subject matter in light of the GAC Principles Regarding gTLD WHOIS Services (28 March 2007). They provided an overview of the continuing multi-phase efforts undertaken to define a new registration data policy framework which would include requirements consistent with applicable data protection law, as well as a final access system to non-public registration data for lawful and legitimate purposes. Since May 2018 and the adoption of a Temporary Specification, the ICANN Community has been actively involved in policy work in several phases. All three phases of policy development work have concluded. Implementation of policy recommendations is ongoing for EPDP Phase 1 (policy foundations), and remains to be started for EPDP Phase 2A (differentiation between legal and natural persons). EPDP Phase 2 (registration data access system) has moved into a pilot phase with the expected launch of the Registration Data Request Services (RDRS). Consideration of future policy development regarding the accuracy of registration data (Accuracy Scoping effort) is still paused.

Presenters recalled the public policy concerns raised in the GAC Comments<sup>1</sup> (Nov. 2022) regarding the proposed **Draft Registration Data Consensus Policy (EPDP Phase 1)** as it relates to the definition and proposed timelines to respond to urgent requests; the collection and publication of reseller data; the collection/publication of registration information related to legal entities; and qualifiers in the policy language related to “commercial feasibility” in connection with redacted data. Among other concerns, the GAC noted that there is still currently a lack of clear standards in terms of enforcement and implementation of the proposed consensus policy, and a risk that the proposal implements a partial and outdated system not taking into account other more recent policy developments such as EPDP Phase 2A, as well as ongoing regulatory or legislative developments. GAC Topic Leads also recalled ICANN org’s response to the public comments discussed during ICANN77. It is expected that implementation of the Phase 2A policy recommendations (regarding collection/publication of registration information related to legal entities) could start by the end of 2023 or early 2024, once EPDP Phase 1 implementation completes.

Regarding **EPDP Phase 1 Implementation**, following concerns expressed by the GAC in a letter requesting the ICANN Board’s review of the timeline for response to **Urgent Requests** (23 August 2023)<sup>2</sup> in the proposed Registration Data Consensus Policy, GAC Topic Leads reported that ICANN Board had decided that additional time is needed to consider the appropriate next steps. These include consideration of any data the GAC could provide as to experiences of its members in working with contracted parties on requests of an urgent nature. ICANN’s Security and Stability Advisory Committee (SSAC) shared draft comments with the GAC and GNSO that it intends to finalize for possible advice to the ICANN Board. These comments discuss: the incompatibility between the definition of Urgent Requests (imminent threat to life) and response times, which SSAC expects to be measured in minutes, not hours or days; ambiguity in the language that renders the policy unenforceable; applicable precedent in ICANN’s contracts and Internet provider’s practices in handling emergency requests for disclosure by law enforcement and governmental agencies; and the importance of procedural requirements in considering policy proposals, including a “fitness for purpose” test and the documentation of clear rationales. SSAC is expected to recommend modification of the policy for appropriate expedited handling of Urgent Requests and the gathering of data on such requests for future consideration. In the meantime, the GAC has recommended that ICANN proceed with the rest of the proposed Registration Data Consensus Policy, which was expected to be discussed among stakeholders at the end of ICANN78.

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<sup>1</sup> See <https://gac.icann.org/statement/public/gac-comments-registration-data-consensus-policy-21nov22.pdf>

<sup>2</sup> See [GAC Letter to ICANN Board](#) (23 August 2023)

A GAC member urged other GAC delegations to continue to militate for a very short timeline to respond to Urgent Request in the context of a wider vigilance that all the efforts being invested in policy development and implementation does not end in failure to address real world requirements.

The latest updates were provided regarding the **Registration Data Request Service (RDRS)**, a pilot program expected to collect and analyze data to inform future consideration of a more permanent Standardized System for Access and Disclosure (SSAD, EPDP Phase 2). This simpler system, to be launched in November 2023, will act as a central portal for intake registration data disclosure requests, at no cost to requestors, and will route requests to the relevant registrar automatically for appropriate consideration on a voluntary basis. Following consideration of GAC statements in the Kuala Lumpur, Cancun and Washington Communiqués, ICANN org has included a feature allowing law enforcement to request confidentiality from a registrar in the processing of a disclosure request. More recently, in connection with the discussion of Urgent Requests in the context of the EPDP Phase 1 Policy, the ICANN Board determined that the RDRS, as system in which registrar participation is voluntary, should not be relied upon in emergency situations and that direct contact of the Registrar was the appropriate channel. Therefore, the functionality of flagging a request as “Urgent” has been replaced by “Expedited Review Request”.

In light of the voluntary nature of the RDRS and partial onboarding of registrars to date, a GAC Member questioned the value of the system for requestors, as well as how new requirements in registrar contacts would apply to RDRS responses in the future. In response, it was recalled that the ICANN Board, in its resolution approving the development of the RDRS (then the WHOIS Disclosure System), the ICANN Board urged the GNSO Council to consider a Policy Development Process or other means to require registrars to use the System. Another GAC Member expressed concern with potential usurpation of law enforcement identity in the RDRS given its lack of accreditation and verification function. It was confirmed that such features are only envisioned for a future SSAD and that in the meantime registrar will remain responsible to follow their own existing procedures to confirm that requestors are indeed the person who they purport to be.

One particular concern was raised regarding the **interplay between RDRS and Privacy/Proxy Services**. In the case of data disclosure request submitted through the RDRS for domain registrations using so called Privacy or Proxy services (which in effect shield the information of the actual registrant/beneficiary of the domain name), it is unclear whether the underlying registrant data would be returned in response to such disclosure requests. In fact, it was noted that if a registrant used a proxy service (which leading registrars have provided by default for free), Registrars expect to disclose the proxy information in place of the information about the registrant. Implementation of policy recommendations regarding the accreditation of privacy/proxy services and the disclosure of underlying data was suspended in 2018. Discussions were expected during ICANN78 regarding possible ways forward.

Regarding **accuracy of registration data**, Topic Leads from the GAC Small Group on WHOIS/EPDP/GDPR recalled that it is possible to achieve a balance between the need for accuracy and protecting registrant privacy and that to find the right balance, meaningful data is needed to answer basic questions such as: how widespread a problem is inaccuracy of registration data? And, importantly, what does accuracy mean? To this end, a GNSO Scoping Team analyzed a number of approaches for measuring accuracy and recommended that the GNSO Council request that ICANN org carry out a registrar survey, that further work proceed to explore the option of a registrar audit, and that the GNSO Council pause the Scoping Team's work only on those proposals requiring access to registration data while ICANN worked to establish their legal basis for processing data and purposes for measuring accuracy. The scoping work has been paused entirely by the GNSO Council since November 2022, due to dependencies identified on related work being conducted, in particular by ICANN org. Recently, ICANN reported to the GNSO Council<sup>3</sup> that until there is an

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<sup>3</sup> See [ICANN org Report to the GNSO Council](#) (19 October 2023)

agreed upon definition of accuracy, attempting to measure it will prove difficult, and that several of the scenarios envisioned to date to study accuracy wouldn't yield meaningful data on the current state of accuracy.

### 2.3. DNS Abuse Mitigation

During the ICANN78 GAC discussion on DNS Abuse, a panel of speakers was invited to discuss the current status of improved contractual provisions between ICANN and gTLD Registries and Registrars to enhance the mitigation of DNS Abuse, as well as trends in DNS Abuse mitigation.

It was reported that the **proposed amendments of ICANN's Registry Agreement (RA) and the Registrar Accreditation Agreement (RAA) to enhance the mitigation of DNS Abuse** are currently undergoing voting in their respective constituencies until early December 2023<sup>4</sup>. It was recalled that these amendments were negotiated between ICANN and the Contracted Parties earlier in the year, in response in part to GAC interest and focus on the issue of DNS Abuse mitigation. The proposed amendments were submitted for public comment prior to ICANN77 and were discussed by the GAC in several webinars as well as during the ICANN77 GAC Capacity Development Workshop. Thanks to contributions from several GAC delegations, the work of the GAC's Public Safety Working Group and following a robust consultation on the GAC mailing list, GAC Comment were submitted in July 2023<sup>5</sup>. The GAC expressed its support for these amendments and noted that further work would be needed, possibly prior to applications for the next rounds of new gTLDs, including targeted policy development efforts to further inform the updated contracts, in particular as it relates to: providing further guidance on key terms of the amendments (such as "appropriate" and "prompt" mitigation action, "actionable" evidence and "reasonable" determination); establishing ways to address persistent DNS Abuse; providing incentives for Registrars who achieve positive results in tackling DNS Abuse; specifying the consequences for non-compliance with the amendments; providing transparency on compliance enforcement; and taking into account the expected evolution of DNS Abuse by periodically reviewing of the definition of DNS Abuse and by making the Advisory associated with the amendment a living document which should be updated from time to time with new uses cases.

Several GAC Members commented on the fact that DNS Abuse conducted on TLDs other than the national ccTLD represented a particular challenge with limited mitigation possible at the national level and therefore stressed the need for the further work identified for ICANN and its Contracted Parties be undertaken as a matter of urgency. In response, GAC Members were invited to encourage registrars in their jurisdictions to vote in favor of these amendments, to consider further work including policy development at ICANN, as well as to continue working outside ICANN, internationally to provide avenues for law enforcement and consumer protection agencies' cooperation across borders.

A GAC Member highlighted that none of the proposals made during the public comment period on the amendments were taken onboard in the final agreements which are subject to an ongoing voting period. Further, the concern was raised that ICANN's contracts are seen as outside of the multistakeholder remit, as contracts in the business sense, exclusively between ICANN org and the Contracted Parties, when in fact, they are key part of the functioning of ICANN. In the face of the serious challenges stressed by several GAC delegations, it was suggested that the GAC should assert the need and place of ICANN stakeholders to influence directly the terms of these contracts. It was also proposed that expected policy development be targeted but also comprehensive as to address all the issues discussed by the GAC.

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<sup>4</sup> See [voting thresholds and progress](#), and ICANN's [announcement](#) (13 December 2023) of the formal approval of the amendments by Contracted Parties.

<sup>5</sup> See [GAC Comments on the Amendments to Modify DNS Abuse Contract Obligations](#) (17 July 2023)



Another GAC Member recognized the positive step forward that was taken by Contracted Parties and recognized the incremental nature of the progress being made, as well as the need for the GAC to pay attention to it going forward.

**The DNS Abuse Institute** presented its “Compass” project and methodology which aims to provide a rigorous and transparent approach to measuring DNS Abuse, and currently produces monthly abuse reports that discuss trends across the industry and specific registrars and registries that either have high or low rates of DNS Abuse. Based on its measurements, the DNS Abuse Institute reports that 80% of DNS Abuse gets mitigated within 30 days. It expects that mitigation trends should evolve favorably in the future thanks to the amendments of the ICANN’s contracts.

**ICANN’s Stability Security and Resiliency Team**, part of the Office of the CTO, recalled the background, objective and methodology behind ICANN’s Domain Abuse Activity Reporting tool, which relies on third-party reputation block lists (RBLs) to report monthly on the concentration of 4 categories of threats in legacy and new gTLDs as well as aggregate trends on the prevalence of these threats. The DAAR tool was recalled to have limitations such as the inability to distinguish maliciously registered from compromised domains that are used for abusive purposes, as well as the inability to report on abuse levels at the registrar level. New features that would provide such capabilities are expected to be added incrementally in the future, starting with the first deliveries within a year.

GAC Members were invited to get in touch with ICANN’s Technical Engagement team as well as the DNS Abuse Institute for information and technical assistance (capacity building).

**CleanDNS, a service provider** managing DNS Abuse on behalf of registrars, registries and hosting providers, discussed the importance of well evidenced reports of DNS Abuse, which need to be communicated to the most appropriate party (registry, registrar, hosting provider or registrant), to ensure that the time to mitigate the abuse is as short as possible so that victimization can be minimized.

A GAC Member requested that monthly reports related to DNS Abuse be shared on the GAC mailing list. Another GAC Member suggested that further information and updates on DNS Abuse mitigation be shared on the GAC mailing list in anticipation for ICANN79.

**The ccNSO DNS Abuse Standing Committee** provided an update to the GAC on the findings of its global survey of ccTLDs regarding DNS Abuse trends and DNS Abuse mitigation practices. At a high level, ccTLDs are reported to be among the safest TLDs globally thanks to action taken by ccTLD operators against DNS Abuse as well the variety of checks and verification on domain registrations, either prior to registration, shortly afterwards, or upon detection of abuse. In ccTLDs, no discernible correlation was found between pricing policy and levels of DNS Abuse<sup>6</sup>. It was suggested that better coordination across all TLDs, ccTLDs and gTLDs is necessary to effectively combat DNS Abuse at the global level: if only certain TLDs are effectively addressing DNS Abuse, this will result in pushing DNS Abuse to other TLDs. This is also the case “vertically” between registries and registrars.

GAC Members wondered how DNS Abuse mitigation best practices demonstrated by ccTLDs are specific to them or whether and how they could be applied by gTLD Registry Operators. In response, the ccNSO recalled that ccTLDs tend to operate under a public interest philosophy and therefore pay a lot of attention to their

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<sup>6</sup> In the [GAC Comments on the Statistical Analysis of DNS Abuse in gTLDs Report](#) (19 Sep. 2017), the GAC had noted a highlight of this study: “*The registry operators of the most abused new gTLDs compete on price*”.

reputation and to innovative practices, in light of their role for the vitality of their country’s digital economy. It was suggested that “good” gTLDs adopt practices that are above and beyond what is required in their contracts with ICANN. The representative from CleanDNS highlighted that ccTLDs routinely share information through forums such as CENTR, which enable operators to learn from each other in terms of DNS Abuse trends and mitigation practices.

### **3. GAC WORKING GROUPS**

#### **3.1. GAC Public Safety Working Group (PSWG)**

The GAC Public Safety Working Group continued its work to advocate for improved measures to combat DNS Abuse and promote lawful, effective access to domain name registration data.

The PSWG participated in a session to brief the GAC on DNS Abuse Mitigation that included presentations about 1) the GAC's public comment on the proposed DNS Abuse amendments to the Registry Agreement and Registrar Accreditation Agreement contracts; 2) possibilities for future work to mitigate DNS Abuse; 3) presentations from ICANN org and the DNS Abuse Institute on DNS Abuse trends; 4) efforts by CleanDNS to disrupt DNS Abuse; and 5) the results of the survey of ccTLDs conducted by ccNSO DNS Abuse Standing Committee.

The PSWG continued its active participation to support the GAC Small Group that focuses on domain name registration issues including by participating in the update to the GAC on these issues. The presentation included an update on the Registration Data Request Service (RDRS) and implementation of the EPDP Phase 1 policy recommendations, including appropriate timelines to respond to Urgent Requests.

The PSWG also continued its outreach, holding discussions with several constituent groups within ICANN.

#### **3.2. GAC Underserved Regions Working Group (USRWG)**

The GAC Underserved Regions Working Group (USRWG) held a two-day Capacity Development Workshop (CDW) on 21-22 October 2023. The CDW planning team appreciates the contributions by ICANN org and experts from the ICANN community.

The foundation/policy day focused on topics of interest to the GAC including the GAC's place in the wider Internet governance ecosystem, an introduction on the new gTLD Program (highlighting financial and in-kind support for applicants), DNS abuse mitigation, with an introduction to the upcoming High Level Government Meeting (HLGM) that will be held during ICANN80 in Rwanda.

Day 2 was more technically oriented and provided introductions to the DNS, Blockchain and the impact of alternative namespaces. Noting that such namespaces could be perceived as providing alternatives to the DNS, the GAC emphasized the extreme importance of protecting the security, stability, and resiliency of the DNS, which is an indispensable part of the foundation for a single, global Internet. The GAC intends to monitor further developments related to alternative namespaces.

Both days concluded with language-based breakouts to discuss regional priorities and issues and will be followed by a post-workshop survey.

In addition, with the aim of supporting underserved regions regarding the issue of number resource scarcity, the GAC looks forward to further discussions, including engagement with the Address Supporting Organization (ASO) and the Number Resource Organization (NRO), to address the needs of these regions within ICANN's remit.

The USRWG will continue to enhance capacity development initiatives through webinars and workshops, regionally and during ICANN meetings in light of the complexity and importance of the topics of interest to the GAC and the ICANN community, and for the benefit of all GAC participants, including newcomers.

### **3.3. GAC Operating Principles Evolution Working Group (GOPE WG)**

The GAC Operating Principles Evolution Working Group (GOPE WG) Co-Chairs updated the GAC on its recent activities. The working group released a [Work Plan for 2024 and 2025](#) which outlines next steps to review GAC Operating Principles. The GOPE WG will continue to provide updates on the working group's progress to the GAC as noted in the Work Plan. Interested GAC members are invited to participate in the working group's upcoming discussions and the review of the GAC Operating Principles. The working group will resume its meetings post ICANN78 and update the GAC of their intersessional work at ICANN79.

## 4. CROSS COMMUNITY ENGAGEMENT

### 4.1. Meeting with the ICANN Board

The GAC Chair, Nico Caballero, opened the session and welcomed ICANN Board Members including the Board Chair Tripti Sinha, ICANN Board Vice Chair Danko Jevtović and Becky Burr, and the GAC Vice Chairs. The GAC Chair reviewed the agenda, including the questions submitted by the GAC and those submitted by the ICANN Board.

ICANN Board Chair Tripti Sinha noted the importance of the interaction with the GAC, and that she looked forward to a fruitful discussion.

Sally Costerton, Interim ICANN President and Chief Executive Officer (CEO), noted her availability to provide any clarifications on operational matters pertaining to ICANN org if needed.

The GAC asked the ICANN Board about its understanding of the status of the **facilitated dialogue on closed generics** following the GAC/GNSO/ALAC Chairs' decision to halt the work. Becky Burr, ICANN Board, noted the Board's understanding there is no consensus at this point, and that the GAC and ALAC jointly noted they are comfortable proceeding without closed generics in the next round of new gTLDs, whereas the GNSO Council does not take a position about what happens next, based on a procedural view of what the GNSO Council's authority. The ICANN Board will take this input into consideration, recognizing that the Board will need to make a determination about how to proceed on closed generics for the next round.

A GAC member thanked the Board for triggering the facilitated dialogue, as a GAC member and a participant in the dialogue itself. Although the facilitated dialogue did not achieve a common solution, the group conducted constructive dialogue and provided a positive precedent on multistakeholder cooperation.

Another GAC member asked the ICANN Board for clarification on what text would be included in the future Applicant Guidebook (AGB) on closed generics, and whether it would be similar to the 2012 AGB. Becky Burr, ICANN Board, noted that at this stage the Board has not yet discussed this matter but that input received from the GAC, ALAC and GNSO would be taken into account in the Board's discussion.

The GAC Chair reaffirmed the GAC's concern about the exclusion of **GAC Early Warning** language in recommendation 30.4 of the SubPro PDP WG Final Report pertaining to the removal of the "strong presumption" language from the upcoming AGB as noted in the 10 September 2023 ICANN Board resolution. Becky Burr, ICANN Board, noted the Board's understanding of the sensitivities regarding the "strong presumption" language but noted that the Board was concerned about including this language to ensure consistency and alignment with the ICANN Bylaws. Becky Burr further noted that the ICANN Bylaws contain a degree of deference to the GAC that is not granted to any other Advisory Committee, and that ultimately including the "strong presumption" language was determined as being potentially detrimental to GAC positions and would have increased the opportunities for disputes. Becky Burr finally noted that the Board believes that proceeding with alignment with the ICANN Bylaws, consistent with special provisions pertaining to GAC Advice, is the best way forward for all parties involved.

A GAC member) noted that the Bylaws text which was referenced by the ICANN Board was already present in the previous round of new gTLDs, as was the "strong presumption" language in the AGB and no difficulties were encountered. He therefore noted his concern about the timing of the ICANN Board decision, and that

Iran had suggested softening the language in the Applicant Guidebook in one of the recent GAC/Board bilateral meetings. The ICANN Board stated that this approach best preserves the role of the GAC.

Another GAC member thanked the Board for its explanation, yet expressed concern on the timing of the Board's decision since this was discussed intersessionally between the Board and the GAC, yet the ICANN Board proceeded with a decision prior to ICANN78. Luciano Mazza noted that the language noted a presumption, and such presumption would be rebuttable rather than absolute. He further stated that the language in question also has broader political implications for the GAC. Becky Burr, ICANN Board, expressed the Board's understanding of the political implications of said language, while maintaining the Board's position that aligning with the ICANN Bylaws is ultimately in the best interest of the GAC.

On **DNS Abuse**, the GAC reminded the ICANN Board of its previous commitment to conduct listening sessions to inform the ICANN community about the updated RA and RAA (i.e., contracts) regarding DNS abuse and to discuss the scope of future GNSO policy development in this area. Tripti Sinha, ICANN Board Chair, noted that the Board takes this matter very seriously. James Galvin, ICANN Board, noted the Board's alignment with the GAC's objective to advance attention to and mitigation of DNS Abuse. James Galvin expressed appreciation for the contract amendments and noted that it was important to encourage registrars and registries to ratify them. The ICANN Board also noted the commitment from the GNSO Council to consider future policy development.

On **Registration Data Policy**, the GAC sought to understand what were the ICANN Board's current plans regarding the issue of timelines for response to "Urgent Requests" for disclosure of gTLD registration data. After recalling the process history on this matter, the ICANN Board reiterated it's concurring with the GAC's letter<sup>7</sup> that the timeline proposed in the gTLD Registration Data Consensus Policy was not fit for purpose, that is for addressing situations of imminent threat to life, serious bodily harm, critical infrastructure or child exploitation. The Board noted however that further discussion is needed given the necessity of having pre-established channels between registrars and law enforcement to ensure appropriate processing of such Urgent Requests, which it recognized does not exist in all jurisdictions, and is a challenge in situations involving several jurisdictions. In the meantime, the ICANN Board indicated agreeing with the GAC that the Registration Data Consensus Policy should move forward without the Urgent Request provisions. The ICANN Board is now expected to engage with the GNSO Council to resolve the unique situation from a policy perspective where the Board has accepted a policy recommendation (on Urgent Requests) but now believe it should not have done so.

The ICANN Board Chair asked the GAC what issues should be addressed in the **next five-year strategic plan**. The GAC then commented about ICANN's plans, positions, and intentions with respect to the Global Digital Compact (GDC) and the WSIS+20 review. ICANN has expressed concern about the absence of the technical community in the proposed definition of stakeholders in the GDC. The GAC agreed that ICANN has an important role to play in these discussions. The ICANN Board confirmed it is a priority to engage with multilateral forums and share the successes of multistakeholderism.

The GAC asked the ICANN Board about ongoing discussions in the GNSO about its **Statement of Interest (SOI) requirement**, specifically about transparency in the SOIs. Jorge Cancio (Switzerland) noted that the GAC included language on this matter in the ICANN77 Communiqué and expects further language to be included in the ICANN78 Communiqué. Tripti Sinha, ICANN Board Chair, affirmed the Board's commitment to

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<sup>7</sup> See [GAC Chair correspondence to the ICANN Board Chair](#) (23 August 2023)

transparency, especially as it relates to participation in GNSO policy development, and that the Board is following this matter very closely.

A GAC member asked the Board for the status of the ICANN77 GAC Advice to the Board pertaining to **auctions of last resort**. The GAC also asked the ICANN Board about plans for private auctions and applicant support in the next round of the New gTLD Program. Becky Burr noted that ICANN org has engaged experts to look at the topic of auctions, and expressed the Board's understanding of community concerns on private auctions especially in considering the global public interest. Ultimately the Board would like to receive expert advice on this topic prior to moving forward.

GAC Chair Nico Caballero thanked the ICANN Board members and other attendees and closed the joint session.

#### 4.2. Meeting with the Generic Names Supporting Organization (GNSO)

The Governmental Advisory Committee (GAC) and Generic Names Supporting Organization (GNSO) held a bilateral session to discuss issues of mutual interest. The main agenda focused on the New gTLD Program Next Round, DNS Abuse Mitigation, the Registration Data Request System (RDRS) and IGO Curative Rights Protection Mechanism Implementation.

On **DNS Abuse Mitigation** the GNSO Council provided an update on the ongoing vote for the contractual amendments to the registrar and registry accreditation agreement which seek to strengthen abuse provisions. The vote on said provisions is expected to conclude in December, and the GNSO Council is awaiting the vote results on this matter. If the vote on the amendments is successful, the GNSO Council intends to continue to engage with the ICANN community to inform future work and to ICANN's Compliance Team to determine what future policy work may be necessary.

Pertaining to **WHOIS/Data Protection**, the GNSO Council noted that the System for Standardized Access Disclosure (SSAD) Implementation Review Team (IRT) prepared a document ready for publication but was held back due to the **"urgent requests"** issue to allow for quick implementation. Once the document is published, the recommendation in the Operational Design Assessment notes an 18-month implementation period. The GNSO Council and PSWG agreed to continue to work on the issue of "urgent requests" without stalling the IRT. On the **accuracy issue/DPA status**, the GAC noted and welcomed ICANN org's completion of a Data Protection Impact Assessment (DPIA) on a contractual compliance audit that could shed light on the current state of accuracy. In particular, the GAC is encouraged by ICANN org's determination that this audit would comply with the EU General Data Protection Regulation (GDPR). The GAC recommended, while the community awaits for the conclusion of the negotiations on Data Protection Agreements between ICANN and the Contracted Parties, that further consideration be given to activities that may be resumed. The GNSO Council noted that written communication was ongoing between the GNSO Council, ICANN org and Registries and Registrars. ICANN org, the Registries and Registrars responded to the GNSO Council noting that the negotiations on the DPA are ongoing, but ICANN org has committed to finishing their review of the last discussion points by the end of the year. No specific date was provided on the foreseen completion date for the work by ICANN org thus far.

On the discussion on **transparency in the GNSO and the Statements of Interests (SOIs) amendments**, the GNSO Council noted that there is an upcoming vote during ICANN78 on the proposed amendments to the GNSO SOIs and that it would keep the GAC apprised of the result. The GAC recalled its language from the [GAC ICANN76 Communique](#) which notes that "the GAC strongly supports transparency at ICANN and takes

note of ongoing discussions within the GNSO on disclosure obligations under the GNSO's Statement of Interest (SOI) policy. GAC Members expressed deep concern regarding a proposed exception in the SOI that might permit GNSO participants to refrain from disclosing the identity of the entities they represent in GNSO working groups. The GAC looks forward to further engagement with the GNSO on this issue."

The GAC and GNSO Council reviewed the status of **IGO Curative Rights Protection Mechanism Implementation**. The GNSO Council noted its eagerness to begin the implementation of Specific Curative Rights Protections for IGOs following the approval of the EPDP's final report by the Board. The GAC reiterated the importance of maintaining the current moratorium status until curative protections are fully operational. The GAC and GNSO Council are both awaiting further information on dates and milestones for the implementation.

On the **New gTLD Program Next Round**, the GAC and GNSO discussed mutual areas of interest. On **Closed Generics**, the GNSO Council provided an update on the status of the GAC, GNSO and ALAC Facilitated Dialogue on Closed Generics, noting that due to input from the community, the group decided the draft framework on Closed Generics was not ready to be accepted by the ICANN community. As such, the three Chairs (GAC, GNSO and ALAC) mutually agreed to cease the work, while publishing an outcomes report outlining the work conducted by the group to date. A joint letter was initially prepared to be signed by the three Chairs, but ultimately two different letters were submitted to the Board; one letter from the [GNSO Council](#) and one [joint letter from the GAC and ALAC Chairs](#). Both letters outline the agreement to cease the work and note that the issue of Closed Generics should not be considered a dependency for the next round of new gTLDs, and that any future policy work - if any were to take place - should be based on the work conducted by the facilitated dialogue group. The GAC and ALAC chairs' letter further requested for the Board to consider not accepting applications for closed generic gTLDs in the next round and until such a time as policy recommendations on this matter are produced by the community. The GNSO Council did not agree to add this specific recommendation to the Board as it saw it as setting policy. GAC members noted that joint correspondence would have been appreciated since the [joint GAC, ALAC, GNSO Chair letter](#) to the facilitated dialogue group submitted in August 2023 explained why the work was halted and was signed jointly. GAC members noted their understanding of the GNSO Council's position, and further noted the GAC's intention to include the issue of Closed Generics in the ICANN78 GAC Communique.

The GNSO Council provided an update on the **GNSO Council Small Group on Open Issues**. The GNSO Council recalled the [Board's September resolution](#) where further recommendations from the SubPro PDP Final Report were adopted based on the [GNSO Council's clarifying statement](#) issued to the Board. The Small Group is now focusing on the remaining recommendations, i.e. those not adopted/rejected by the Board to see if they can be modified for reconsideration by the Board. The Board and GNSO Council are intending to discuss this topic at their bilateral meeting at ICANN78. On **Applicant Support** the GNSO Council notes their understanding of the GAC's continued interest on this topic, recognizing the advice issued at ICANN77 and its continued engagement in the GGP on Applicant Support. The GNSO Council will be submitting an invitation to community members to join the Small Team (to be referred to as "Small Team Plus") to tease out pending recommendations, including the topic of Applicant Support. The Small Team Plus, including wider community members, is expected to be seated by the last week of November, and for its work to conclude in a few months, to work on particular issues per topic on pending recommendations. The various SO/ACs are encouraged to identify experts on each pending issue to join the Small Team to review pending recommendations.

On **Registry Voluntary Commitments (RVCs)/Public Interest Commitments (PICs)**, the GNSO Council noted that there is alignment between the GAC and GNSO on this topic and this was flagged by the ICANN Board.



The GNSO Council further noted that the ICANN Board was concerned with the way the recommendation was initially written, and the GNSO Council provided a clarification statement to the Board confirming alignment with the Board that PICs/RVCs are meant to be enforceable.

On **Auctions of last resort**, the GNSO Council acknowledged the GAC's advice to the Board submitted at ICANN77, noting that options of last resort should not be used in contentions between commercial and noncommercial applicants, and that auctions should either be banned or strongly discouraged. The GNSO Council is reviewing questions on how auctions are conducted and how parties can work out contention sets prior to an auction of last resort, however the specific issue identified in the GAC's advice is not currently in front of the GNSO Council since the recommendation was adopted by the Board.

Finally, on **Latin Script Diacritics in new gTLDs**, the GNSO Council recognized that a gap in policy has been identified in terms of the use of diacritic characters in Latin scripts, and ICANN's policies on string similarity review and confusingly similar strings. The example of '.quebec' has shed light on this gap. The GAC strongly supports a multilingual internet free from unnecessary barriers in existing policy. The GNSO Council expressed support for exploring mechanisms to begin this work, including potential solutions to be addressed during the IRT. The GNSO Council noted that this issue will most likely require an additional Policy Development Process (PDP), but that this may not be addressed before the next round of new gTLDs. The GNSO Council noted that further discussions are taking place in the GNSO Council at ICANN78 to see how this issue can be addressed. The GNSO Council's assumption is that the GNSO Council will agree to work on an issue report to identify in detail what the problem is that the GNSO needs to resolve.

**Action Point:**

- **GAC members** encouraged to volunteer to serve on the Small Team Plus with the GNSO Council on topics of interest pertaining to pending recommendations on the SubPro PDP Final Report.

### **4.3 Meeting with At-Large Advisory Committee (ALAC)**

The Governmental Advisory Committee (GAC) and At Large Advisory Committee (ALAC) held a bilateral session to discuss issues of mutual interest. The main agenda focused on following up on the 2017 joint Advice to the Board entitled "Enabling Inclusive, Informed and Meaningful Participation at ICANN: A Joint Statement by ALAC and GAC", a possible Joint ALAC/GAC Statement on Closed Generics, and a possible joint ALAC/GAC Statement on Contention Resolution.

A presentation from a member of the ALAC detailed work that has been done by both committees regarding the past joint advice and then context was provided by a member of the GAC to further advance the cause that was undertaken. The main goal was to be able to improve the effectiveness of GAC and ALAC briefings by making it easier to navigate through and locate information and content that was created. The ALAC member expressed the difficulty to find certain documents and links in the ICANN infrastructure due to the lack of labeled versions, dates and identification numbers for documents. Additionally some links may be broken after several years, making record keeping more difficult.

Newcomers to the GAC echoed these statements and encouraged the two Committees to further their push for ease of access for information as to make the transition into the Committee easier than it is now. It was mentioned that ICANN org is working on primers for new participants to catch up on established topics and policies, but work still has to be done on document preservation and archiving.

On Contention Resolution and potential auction proceeds, a small panel was asked to present to the two Committees, including the Chair of the ALAC, a member of the GAC, and a TLD asset manager who is experienced in the field of auctions for domains and contention resolution. Going through different types of auctions, including typical “Christy’s style” auctions, Dutch Auctions, and then sealed bid auctions, the Asset Manager described the possibilities in the next round to deal with contention for specific TLDs. In their personal opinion, the Sealed Bids / Vickrey auction was their preferred method for future auctions. Also of note were the recipients of the proceeds of the auctions, which they opined should go towards ICANN initiatives and not to people trying to game the system to make individual profits.

This is an issue of importance to the GAC, but one that a participant cautioned should be discussed with the GNSO before becoming potential advice, as they have worked on similar proposals, but have not come to a final conclusion on how to proceed. Also of note as potential difficulty, is that auctions of all kinds hurt those located in underserved regions and with fewer financial resources. A member implored the two committees and ICANN org to look for different mechanisms outside of financial auctions, with other comments in support for broad applicant support, including potentially within resolution mechanisms.

Other methods to ensure equitable results in contention resolutions included bid multipliers (for example if someone from an underserved region placed a bid for a TLD, their bid would automatically be augmented by a multiplier) and Community Priority Evaluation (for example before the auction even starts the potential applicant from an underserved region would receive priority in the process to apply for the TLD). These two mechanisms could help with parity across regions without disincentivizing other participants from the new gTLD next round. It was mentioned that bid multipliers are already being discussed by the implementation teams within ICANN. Any way that this is decided will be a collaborative decision by the Implementation Review Team and by the authors of the upcoming Applicant Guidebook. It will also be important for the ALAC and GAC to study and debate the pros and cons of the potential mechanisms so that a decision is not rushed or poorly thought out.

Finally, regarding a potential GAC and ALAC joint statement on the Closed Generics Facilitated Dialogue, context was shared for where the committees stand. Discussions with the GNSO and context for why policy development, in the ALAC and GAC’s positions should be tabled, were detailed. There were divisions over the definition of public interest relating to closed generics and whether or not it is the community’s role to establish policy or the Board’s role to establish policy within this realm. In the opinion of the GAC and ALAC chairs, it should lie with the community and at this time the community does not have an agreed policy in place for closed generics.

Following the GAC, GNSO and ALAC Chairs’ decision to halt the work of the facilitated dialogue on closed generics, this topic is no longer a dependency for the next round of new gTLDs and will not hold up any future work. The GAC and ALAC expressed their appreciation of the work from the participants in the Closed Generics Facilitated Dialogue.

Finally, Applicant Support was discussed with specific intention to discuss the recommendation 17.2, which the ICANN Board did not accept as a resolution for the next round, and the work that the GAC and ALAC will have to do to provide assistance to potential applicants that do not have the financial resources to otherwise participate in the next round of new gTLDs.

**Action Point:**

- **GAC** will continue to research contention resolution mechanisms and follow any additional developments regarding Closed Generics within the GNSO and ICANN Board.

## 5. INTERNAL GAC MATTERS

### 5.1. GAC Wrap-Up Session

The GAC devoted most of the wrap-up session time to completing the drafting of the ICANN78 GAC Communiqué.

In the time remaining after the conclusion of the Communiqué drafting, GAC Support briefed attendees on key post ICANN78 Meeting dates such as the call for topics for the ICANN79 Meeting (March 2024), including the scheduling of two agenda setting calls (January 2024) aimed to review (1) the block schedule and (2) the objectives of the substantive topics for discussion.

Regarding the High Level Government Meeting to be held in Rwanda at ICANN80, GAC Support notified members of the upcoming call invitation to discuss the topics for the meeting, and the timeline and deadlines for supplying GAC Support with names and email addresses about the potential invitees to invite to the HLGGM.

The GAC Chair, Nico Caballero, reminded committee members of the dates of the ICANN79 public meeting in San Juan, Puerto Rico (2-7 March 2024) and adjourned the meeting.

# # #

## Attachment 1 - ICANN78 Hybrid Annual General Meeting - GAC ATTENDEES LIST

GAC Members (93)		
Argentina	Germany	Niue
Armenia	Grenada	Norway
Australia	Republic of Guinea	Pakistan
Austria	Haiti	Papua New Guinea
Azerbaijan	Holy See - Vatican City State	Philippines
Bangladesh	Hong Kong, China	Portugal
Barbados	Hungary	Russian Federation
Belarus	India	Rwanda
Bermuda	Indonesia	São Tomé and Príncipe
Bosnia and Herzegovina	Iran	Kingdom of Saudi Arabia
Brazil	Iraq	St. Vincent and The Grenadines
Burkina Faso	Ireland	Senegal
Cambodia	Israel	Serbia
Republic of Chad	Italy	Singapore
Canada	Japan	South Africa
Cayman Islands	Kenya	Spain
China	Kuwait	Suriname, Republic of
Colombia	Lao People's Democratic Republic	Sweden
Congo, Republic of	Lebanon	Switzerland
Cook Islands	Libya	Chinese Taipei
Côte d'Ivoire	Luxembourg	Thailand
Croatia	North Macedonia	Timor Leste
Czech Republic	Malaysia	Trinidad and Tobago
Denmark	Mali	Turkiye
Egypt	Mauritania	Uganda

European Commission	Mexico	United Arab Emirates
Finland	Morocco	United Kingdom
France	Republic of the Union of Myanmar	United States of America
Gabon	Nepal	Uruguay
Ghana	The Netherlands	Vanuatu
Georgia	Nigeria	Zimbabwe

<b>GAC Observers (8)</b>	
Commonwealth Telecommunications Organization (CTO)	League of Arab States
Regional Technical Commission of Telecommunications (COMTELCA)	Organisation Internationale de la Francophonie (OIF)
Caribbean Telecommunications Union (CTU)	Universal Postal Union (UPU)
International Telecommunication Union (ITU)	World Intellectual Property Organization (WIPO)

## Attachment 2 - ICANN78 Action Points Compilation

#	Subject Matter	Action Point
1	Meeting with the Generic Names Supporting Organization (GNSO)	GAC members were encouraged to volunteer to serve on the Small Team Plus with the GNSO Council on topics of interest pertaining to pending recommendations on the SubPro PDP Final Report.
2	Meeting with At-Large Advisory Committee (ALAC)	GAC will continue to research contention resolution mechanisms and follow any additional developments regarding Closed Generics within the GNSO and ICANN Board.