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ICANN76 GAC Discussion on Subsequent Rounds of New gTLDs

12 March 2023

ICANN | GAC
Governmental Advisory Committee

Agenda

1. Introduction - GAC Chair

2. Recent Developments - GAC Topic Leads (5 minutes)

3. GAC Discussion on the SubPro Operational Design Assessment (ODA)(40 minutes)

   a. ICANN org overview (Lars Hoffmann/Chris Bare)

   b. GAC Discussion

4. GAC Discussion on Closed Generics - GAC Topic Leads (20 minutes)

   a. Update from GAC/GNSO dialogue & initial outputs

   b. GAC discussion on initial outputs

5. GNSO Guidance Process (GGP) - Applicant Support (5 minutes)

6. GAC Discussion on Potential GAC Advice (5 minutes)

7. AOB

ICANN 76
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CANCÚN
11–16 March 2023

2. Recent Developments

Jorge Cancio, GAC Topic Lead (Switzerland)

2. Recent Developments & Next Steps

- The GAC submitted a **collective comment** for the Board to consider prior to ICANN71 (1 June 2021);

- The Operational Design Assessment (ODA) was delivered to the ICANN Board on the 12 Dec. 2022;

- In the ODA, ICANN org presents two potential paths forward ("options") for implementation of the SubPro Final Report outputs:

  1. A single application submission period per round; and
  2. Cyclical application submission periods.

- Several substantive policy issues remain unresolved or "open" & were raised to the ICANN Board for review prior to the approval of the SubPro PDP WG Final Report.

- It is expected for the ICANN Board to vote on most recommendations from the SubPro PDP Final Report during ICANN76

  - Exception: issues that remain unresolved or "open"

  - "Open"/unresolved issues raised to the Board align with GAC priority topics (per collective comment from 1 June 2021)

2. Recent Developments & Next Steps

- Open/unresolved policy issues which the GAC has previously focused on as priority topics & submitted comments on:

  - ✓ Public Interest Commitments (PICs)/Registry Voluntary Commitments (RVCs)
  - ✓ Closed Generics
  - ✓ Applicant Support Program
  - ✓ Auctions
  - ✓ GAC Consensus Advice/GAC Early Warnings
  - ✓ Community Applications
  - ✓ Name collisions
  - ✓ Predictability

- Board vote for above mentioned topics is expected to be deferred, pending further discussion

- Recommendations which are approved by the Board during ICANN76 are expected to move to implementation after ICANN76

2. Recent Developments & Next Steps

- Now that the ICANN org has delivered the Operational Design Assessment, next steps with varying timelines include:

  i. ICANN Board consideration of the PDP recommendations as adopted by GNSO Council - opportunity for GAC Consensus Advice to the ICANN Board;

  ii. ICANN Board vote on a subset of recommendations (expected during ICANN76);

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

  iv. Resolution of open/unresolved issues - timing TBC (expectation until ICANN79)

- Upon completion of these successive steps ICANN org would be expected to start a new round of applications for gTLDs, timing to be confirmed.

Please note: GAC may issue **Consensus Advice** on any of the SubPro topics of interest, throughout the above mentioned timeline.

3. Operational Design Assessment

Jorge Cancio, GAC Topic Lead (Switzerland)
Manal Ismail, GAC Chair
Chris Bare (ICANN org)
Lars Hoffmann (ICANN org)

Subsequent Procedures

GAC Plenary Session

Global Domains & Strategy

ICANN76
12 March 2023 | 13:15-14:30 EST

ICANN

Agenda

1. Operational Design Assessment Review

    ○   Overview

    ○   Comparison

2. What to Expect in Cancun and Beyond

    Annexes

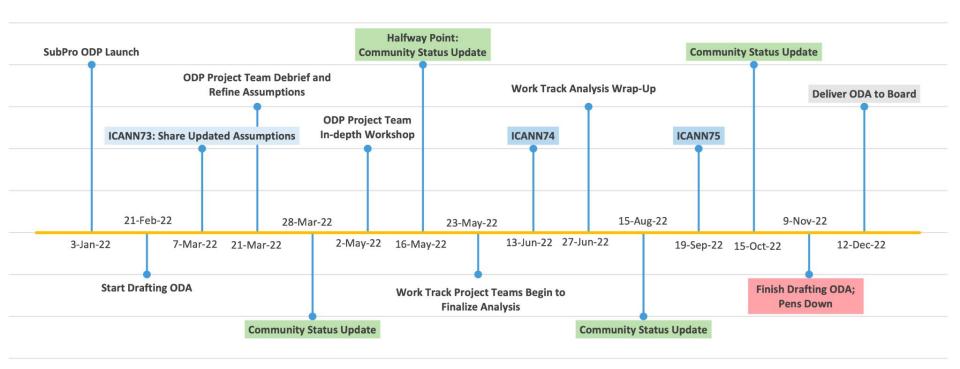# **Operational Design Assessment Review**

Agenda Item #1

ODA Overview

Operational Design Phase Timeline

SubPro ODP Launch

ODP Project Team Debrief and Refine Assumptions

Halfway Point: Community Status Update

Work Track Analysis Wrap-Up

Community Status Update

Deliver ODA to Board

ICANN73: Share Updated Assumptions

ODP Project Team In-depth Workshop

ICANN74

ICANN75

21-Feb-22

28-Mar-22

23-May-22

15-Aug-22

9-Nov-22

3-Jan-22   7-Mar-22   21-Mar-22   2-May-22   16-May-22   13-Jun-22   27-Jun-22   19-Sep-22   15-Oct-22   12-Dec-22

Start Drafting ODA

Work Track Project Teams Begin to Finalize Analysis

Finish Drafting ODA; Pens Down

Community Status Update

Community Status Update

Key Takeaways

- A majority of the Outputs **are implementable** and can be embodied in the New gTLD Program.
- The Outputs encompass **mechanisms to support diversity, predictability, and innovation.**
- ICANN org's analysis of the Outputs shows that the ICANN community considered in its deliberations and **addressed a wide range of Global Public Interest (GPI) considerations** in the recommendations and rationales provided in the SubPro recommendations.
- ICANN org found **issues related to seven topics that may need to be resolved** before New gTLD Program implementation can be completed.
- Implementation of new application rounds based on the Final Report **represents a significant investment** in time, human, and financial resources.
    - ICANN org expects that **more than three dozen vendors** will be required to support the processes called for by the Outputs.

Comparison of 2012 Round with 2021 Recommendations

Key Recommended Changes to Topics of GAC Interest

2012 policy/process	Recommended changes
Topic 1: Continuing Subsequent Procedures	
"Systematized manner of applying for gTLDs be developed in the long term be maintained.", "New gTLD Program continue to be administered "in an ongoing, orderly, timely and predictable way." and "Primary purposes of new gTLDs are to foster diversity, encourage competition, and enhance the utility of the DNS".	None.
Topic 2: Predictability	
ICANN org consulted with the GNSO Council and ICANN community to determine appropriate methods to address issues that arose during the 2012 round.	A new predictability framework is recommended, including the establishing of a Standing Policy Implementation Review Team which would act as a go-between the program operations and the GNSO Council. The framework only comes into play once the program is operationalised - not during implementation.

Key Recommended Changes to Topics of GAC Interest

2012 policy/process	Recommended changes
Topic 9: PICs/RVCs	
• 2012 AGB included provisions requiring that community applicants create enforceable provisions designed to ensure conformity to the stated purpose of the TLD. • In 2014, New gTLD Program Committee adopted GAC Category 1 Safeguard Advice, mandating that new registry operators include four mandatory PICs in their registry agreements and additional mandatory PICs for regulated and highly regulated gTLD operators.	• The use of PICs and RVCs has been affirmed for the next round, and they can now be used to overcome certain aspects of string similarity, such as addressing confusion around the issue of singular vs. plural versions of the same word with different meanings, as well as to address GAC advice and objections. • The working group did not address Board's concern "that the current Bylaws language would create issues for ICANN to enter and enforce any content-related issue regarding PICs or [RVCs]."

Key Recommended Changes to Topics of GAC Interest

2012 policy/process	Recommended changes
Topic 17: Applicant Support	
• Application fees designed to ensure that adequate resources exist to cover total cost to administer the new gTLD process. May differ for applicants. • ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by UN as least developed.	• Application fees may differ for applicants that qualify for applicant support. • Expanded scope to include coverage for attorney fees, application writing consultants, and bid credit/multiplier for supported applicants participating in ICANN Auction of Last Resort. The Board noted that expanding financial support to cover fees that ICANN org does not charge does not seem feasible or appropriate. • Scope of the Program not limited to "least developed countries" but available to applicants that meet evaluation criteria. • Outreach efforts expanded to include those from "struggling regions that are further along in their development."; Improvements to outreach and awareness-raising activities to target "struggling regions" beyond the 'Global South' and to do so well in advance of the application window opening. • ICANN org should develop a funding plan that includes working with 'funding partners'. • Applicants that apply for but do not qualify for support, assuming there was no willful gaming, must have the option to convert to a standard application.

Key Recommended Changes to Topics of GAC Interest

2012 policy/process	Recommended changes
Topic 30: GAC Consensus Advice and Early Warning	
- GAC Advice on New gTLDs to be submitted by the close of the objection filing period. If the Board receives GAC Advice stating that it is the consensus of the GAC that a particular application should not proceed, this will create a strong presumption for the ICANN Board that the application should not be approved. If the Board does not act in accordance, it must provide rationale. - A GAC Early Warning typically results from a notice to the GAC by one or more governments that an application might be problematic, e.g., potentially violate national law or raise sensitivities. The GAC may then send that notice to the Board – constituting the GAC Early Warning. ICANN will notify applicants of GAC Early Warnings as soon as practicable after receipt from the GAC. The GAC Early Warning notice may include a nominated point of contact for further information.	- To the extent that the GAC provides GAC Consensus Advice in the future on categories of TLDs, the GAC should provide this Advice prior to the finalization and publication of the next AGB. - AGB should be revised to remove language that creates a "strong presumption for the ICANN Board that the application should not be approved," and in place of the omitted language, the AGB will reference Bylaws provision that describes the voting threshold for the ICANN Board to reject GAC Consensus Advice. - GAC EW and Application Comment periods should continue to be concurrent. To the extent that there is a longer period given for the GAC to provide Early Warnings (above and beyond the Application Comment Period), the AGB must define a specific time period during which GAC Early Warnings can be issued. - Applicants should be allowed to change their applications, including the addition or modification of RVCs, to address GAC Early Warnings, GAC Consensus Advice, and/or other comments from the GAC.

Key Recommended Changes to Topics of GAC Interest

2012 policy/process	Recommended changes
Topic 34: Community Applications	
2007 IG F: "If there is contention for strings, applicants may: i) resolve contention between them within a pre-established timeframe ii) if there is no mutual agreement, a claim to support a community by one party will be a reason to award priority to that application. If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and; iii) the ICANN Board may be used to make a final decision, using advice from staff and expert panels."	- No changes to the guiding principles, based on the WG recommendations. - IG addresses some perceived inconsistencies of scoring during the previous round, by noting that other considerations may be taken into account in scoring for criterion if multiple organizations represent a community rather than one single organization. - Additional IG suggests changing the passing score for achieving community priority status from a numerical score to a percentage of the total number of possible points as well as lowering the threshold for achieving community-based status. - Rec 34.21 recommends that if a CPE Panel conducts independent research deemed necessary to evaluate the application, the evaluator needs to disclose that research to the applicant and provide them 30 days to respond. (IG34.22) If the CPE Panel relied upon research for the evaluation decision, it should be cited.

Key Recommended Changes to Topics of GAC Interest

2012 policy/process	Recommended changes
Topic 35: Auctions	
2007 recommendations mute on private resolutions; private resolutions encouraged in the AGB (implementation, not policy decision). - Specifically noting that if "there is no mutual agreement a process will be put in place to enable an efficient resolution of contention."	- No policy changes, as no recommendation was approved by the Council. Whether to maintain private resolution of contention sets is a question for the implementation process. - Applicants will be required to sign a *bona fide* statement of intention to operate the gTLD. - Applicants who chose to resolve string contention privately will need to abide by the Contention Resolution Transparency Requirements.

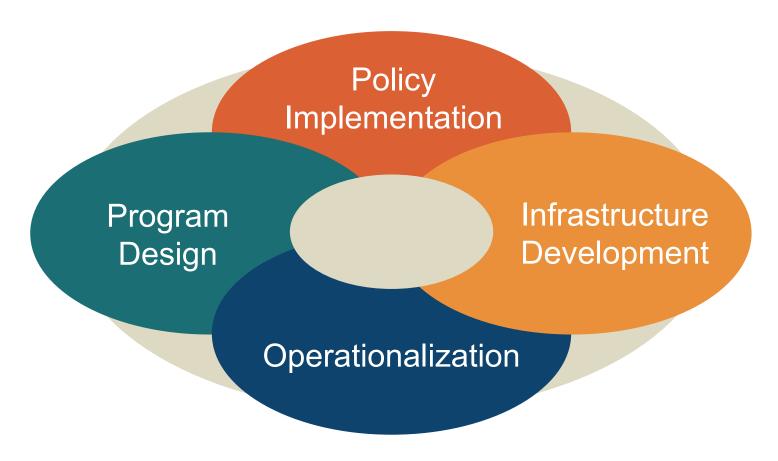# What to Expect in Cancun and Beyond

Agenda Item #2

Anticipated Action in Cancun and Next Steps

◉ The Board is expected to **accept most** of the GNSO's **recommendations** during **ICANN76,** per Tripti's blog.

◉ The **pending recommendations** not resolved at ICANN76 will continue to be on the Board's priority and will be addressed in a timely manner.

  ○ The Board has already started its dialogue with the Council on how to resolve them and to ensure that they do not hold up the progress of the Policy Implementation, which would have repercussions on the other Implementation Stages.

◉ It is anticipated that the Board will direct org to convene an IRT to **begin implementation** following the Board resolution at ICANN76.

Implementation Streams

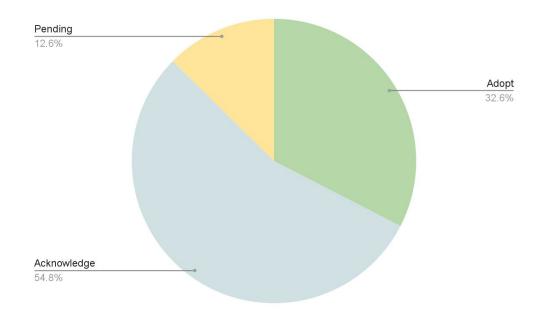As detailed in the ODA, the Implementation Phase for SubPro consists of 4 **interdependent** streams:

Dependencies

◉ The completion of the **Policy Implementation** stream (i.e., finalizing the updated AGB) is dependent on the completion of all outstanding issues, including:
  ○ 'Pending' Recommendations,
  ○ All ongoing community work.
◉ The implementation of both **Program Design** and **Infrastructure Development** streams are dependent on:
  ○ The finalization of the Policy Implementation stream.
◉ The completion of the **Operationalization** implementation stream is dependent on finalizing the implementation of:
  ○ Program Design,
  ○ Infrastructure Development streams.

Outputs Overview

Total number of Outputs, including Implementation Guidance	301
Number of Outputs (Recommendations, Affirmations, and Affirmations with Modification) that the Board plans to **adopt**	98
Number of Outputs (Affirmations and Implementation Guidance) that the Board will **acknowledge**	165
Number of Recommendations that are currently slated as **'pending'**	38

Pending
12.6%

Adopt
32.6%

Acknowledge
54.8%

Topic 9: PICs/RVCs

- **Issues**
  - Risks of challenges related to ICANN's ability to enter into and enforce PICs/RVCs in accordance with its mission, due to limitations in the Bylaws Section 1.1.
  - A waiver to Specification 11, sections 3(a) and 3(b) could:
    - Lead to DNS abuse for second-level registrations in a single-registrant TLD going undeterred, unobserved and therefore unmitigated.
    - Require a change to the RA's Specification 13, which would introduce significant implementation efforts to harmonize current 2012 agreements with future rounds if ICANN org elected to leverage the current agreement for the future rounds.

- **Board's view**
  - Pending.

Topic 9: PICs/RVCs

- **GAC input - June 2021**

  - GAC continues to harbour serious concerns regarding the absence of policy recommendations on DNS Abuse Mitigation. Notes that the WG deems that such future effort should be holistic and must apply to both existing and new gTLDs.

  - The GAC notes that any future voluntary/mandatory PICs need to be enforceable through clear contractual obligations, and consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties.

Topic 17: Applicant Support

- **Issue**
  - Concern over the open-ended nature of these fees as affirmative payments of costs beyond application fees could raise fiduciary concerns for the Board. This concern does not extend to facilitation of *pro bono* services.
- **Board's view**
  - Pending.
- **GAC input**

  - June 2021 GAC comment: "*GAC members note the importance of fostering gTLD applications from a diverse array of applicants, which could, inter alia, include regional and local authorities, from all regions and that every effort be made to increase the number of applications from underrepresented regions […] The GAC reiterates its support for proposals to reduce or eliminate ongoing ICANN registry fees to expand financial support.*"

  - GAC members are currently engaging in the GNSO Guidance Process on Applicant Support.

Topic 23: Closed Generics

- **Issue**

  - *No consensus recommendations* from the SubPro Final Report; community dialogue. A Board-facilitated dialogue between a small group of individuals selected by the GNSO, GAC, and ALAC is ongoing.

- **Board's view**
  - N/A

- **GAC input**
  - GAC Beijing Communiqué Advice: "*for strings representing generic terms, exclusive registry access should serve a public interest goal.*"

  - GAC Members are currently engaging in a facilitated dialogue with GNSO and At-Large members on closed generics.

Topic 30: GAC Advice/Early Warning

- **Issues**
  - Rec 30.4: The GAC has publicly expressed its view on the removal of the "presumption" language from the AGB.

  - Rec 30.5: The GAC has publicly expressed its negative view on Implementation Guidance 30.2, which concerns the limitation of "the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to disincentivizing any such Advice being submitted after the finalization and publication of the next Applicant Guidebook". It is the view of ICANN org that this has repercussions on Recommendation 30.5 as well.

  - Rec 30.6: The GAC has publicly expressed its view on the need to update the language of the recommendation as follows: "[...] how the applicant may potentially address the GAC member's concerns to the extent feasible".

  - Rec 30.7: See Topic 9.

- **Board's view**
  - Rec 30.4, 30.5, 30.6: The Board will consult with GNSO Council and GAC before resolving on this recommendation.

  - Rec 30.7: See Topic 9.

Topic 30: GAC Advice/Early Warning

- **GAC input - June 2021**

  - GAC does <u>not</u> support the PDP WG recommended limitation on the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to discentivizing any such Advice being submitted after the finalization and publication of the next AGB.

  - Rec. 30.4: diverse views within the GAC on the "strong presumption" language.

  - Some GAC Members believe that Section 3.1 of the 2012 AGB which states that GAC Consensus Advice *"will create a strong presumption for the ICANN Board that the application should not be approved,"*should be maintained

  - Such members consider that this language was part of a delicate compromise during the 2012 round preparations and further consider that it is consistent with past and present Bylaws provisions.

Topic 34: Community Applications

- **Issue**
  - Rec 34.12: The Board is concerned that this recommendation may require ICANN to publish for public comment confidential information, such as terms of a contract with a third party, including, e.g., fees and payments.

- **Board's view**
  - Pending.

- **GAC input**
  - The GAC supported the proposals in the Sub Pro PDP WG Initial Report for procedures to deal with community-based applications, as consistent with previous GAC advice.

  - The GAC notes that consideration should be given to providing support for non-profit community-based applications, which is not included in the final recommendations.

Topic 35: Auctions

- **Issue**
  - The Board is concerned that this recommendation contains a reference to private auctions. Since there is no policy on private auctions, this reference may create confusion during implementation and operationalization of the program.
- **Board's view**
  - Council to consider amending per PDP Manual Section 16.

- **GAC input - June 2021**

  - Rec. 35.3: in an attempt to reduce potential gaming, the PDP WG included the need for applications to be submitted with a "bona fide" intention to operate a TLD

  - The GAC reiterates concerns on the implementation, and notes that punitive measures for non compliance or submission of a "bona fide" intention are not sufficiently defined.

  - Auctions of Last resort, the GAC reaffirms its view that they should <u>not</u> be used in contentions between commercial and non-commercial applications, and private auctions should be strongly disincentivized.

Policy Implementation Dependencies: Topics

Concern / Reason for Dependency	Board Considerations / Options / Action
Topic 17: Applicant Support	
GNSO Guidance Process on Applicant Support	Anticipate guidance from the WG on implementation of certain SubPro Final Report outputs relating to Applicant Support, including: ● Recommendation 17.3 ● Implementation Guidance 17.5 ● Implementation Guidance 17.8 ● Implementation Guidance 17.9 ● Implementation Guidance 17.10 NOTE: The GGP on Applicant Support is expected to complete its work, including Public Comment and Final Report, by December 2023.
Topic 23: Closed Generics	
No consensus recommendations from the SubPro Final Report; community dialogue. The lack of consensus on recommendations means that there is no clear path from a policy perspective and there are outstanding questions as to how to proceed with Closed Generic strings.	A Board-facilitated dialogue between a small group of individuals selected by the GNSO, GAC, and ALAC is ongoing. Should the dialogue result in an agreed-upon framework, the next step will be for the GNSO Council to move the framework through the appropriate policy process. Should the dialogue not result in a mutually agreed-upon framework, it may be presumed that the Board will need to decide on the most appropriate way forward (taking into account the defined roles and respective remits of the Board, GAC, and GNSO Council.)

Policy Implementation Dependencies: Advice and Specific Review Items

Concern / Reason for Dependency	Board Considerations / Options / Action
ALAC Advice	
ALAC Advice on SubPro	Consider and take action on advice
ALAC Advice on DNS Abuse	Consider and take action on advice based on outcome of DNS abuse work in the ICANN community
SSAC Advice	
SAC059: Response to The ICANN Board Regarding Interdisciplinary Studies	Consider and take action on advice based on outcome of NCAP Study 2
SAC114: SSAC Comments on the GNSO New gTLD Subsequent Procedures Draft Final Report	Further engagement with SSAC on clarifying questions / responses; consider and take action on advice
Specific Review Items	
SSR2 Recommendation 17.1 (Framework for name collisions)	Consider and take action on recommendation based on outcome of NCAP Study 2
CCT Recommendation 14 (Incentives for anti-abuse measures)	Consider and take action on recommendation based on outcome of DNS abuse work in the ICANN community
CCT Recommendation 15 (Preventing systemic abuse)	Consider and take action on recommendation based on outcome of DNS abuse work in the ICANN community

Policy Implementation Dependencies: Other Issues

Concern / Reason for Dependency	Board Considerations / Options / Action
Expedited Policy Development Process (EPDP) on Internationalized Domain Names (IDNs) *[Current actionholder: IDN EPDP Working Group]*	Finalize EPDP, final phase currently scheduled to conclude April 2025, followed by Council consideration and, if approved, Board consideration and approval before it can be implemented by ICANN org.
DNS Abuse *[Current actionholder: ICANN Board/ ICANN Community]*	Determine what actions, if any, need to be taken regarding DNS abuse and act on them.
Name Collision Analysis Project (NCAP) Study 2 *[Current actionholder: NCAP Discussion Group]*	Consider any advice received related to NCAP Study 2 recommendations and implications for SubPro, specifically Recommendation 29.1.

Questions and Discussion

3. Operational Design Assessment

GAC Discussion:

- **GAC to consider advice to the ICANN Board on Subsequent Rounds of New gTLDs, in particular**:

  - The "options" provided in the ODA, and the ICANN Board's request for ICANN org to "*provide more detail on the financing of the steps envisioned in the ODA, and to develop a variation of the proposed Option 2 that ensures adequate time and resources to reduce the need for manual processing and takes into account the need to resolve critical policy issues*" (per ICANN Board Chair's blog)

  - **Unresolved/open issues, including**:

    - Public Interest Commitments (PICs)/Registry Voluntary Commitments (RVCs)
    - GAC Advice/Early Warning
    - Closed Generics
    - Applicant Support Program
    - Auctions

4. GAC/GNSO Dialogue on Closed Generics - Review of Outputs and Discussion

Manal Ismail, GAC Chair
Jason Merritt, Canada
Jorge Cancio, Switzerland

3. Closed Generics - Update on GAC/GNSO Facilitated Dialogue

- GAC and GNSO Council agreed to take part in a **facilitated dialogue** between GNSO/GAC to develop a framework on Closed Generics (including one representative from the ALAC);

- GAC ICANN46 Beijing Communiqué (11 April 2013) noted that "*for strings representing generic terms, exclusive registry access should serve a public interest goal.*"

- GAC Participants:

  - ✓ Manal Ismail, GAC Chair
  - ✓ Jorge Cancio, Switzerland
  - ✓ Jason Merritt, Canada
  - ✓ Ronke Sola-Ogunsola, Nigeria
  - ✓ Nigel Hickson, UK
  - ✓ Ian Sheldon, Australia

- Group began discussions in November 2022, and held a hybrid 2-day meeting in Washington D.C. in January 2023;

- Group also met face-to-face during ICANN76;

- Discussions planned to continue after ICANN76 virtually.

3. Closed Generics - Update on GAC/GNSO Facilitated Dialogue

- Group agreed to work under Chatham House Rules, agreeing to submit regular updates to ICANN community via agreed upon Summary Documents;
- 3 Summary Documents submitted to date:
  - ✓ January 2023
  - ✓ Hybrid/F2F Washington DC Report
  - ✓ Initial Output Summary prior to ICANN76

Initial Outputs from GAC/GNSO Facilitated Dialogue:

- 3 blocks to be included in framework:
  - ✓ Application
  - ✓ Evaluation
  - ✓ Contracting & Post-Delegation
- Summary of shared understandings/initial outputs shared with GAC Members on 9 March 2023.

3. Closed Generics: Initial Outputs from facilitated dialogue

Application:

- Application criteria and process for closed generic gTLDs should be fully developed, implemented, and transparent prior to the next round of new gTLDs.

- The facilitated dialogue group believes it is the responsibility of the applicant to provide evidence of their eligibility for a closed generic gTLD.

- Public interest: as per GAC Beijing Communiqué, group discussed how to incorporate it objectively into a framework for closed generics;

  - Group reviewed ICANN's Global Public Interest (GPI Framework) and ICANN Bylaws

- Group believes it is possible for a closed generic gTLD to serve a public interest goal which goes beyond ICANN's mission

- There is value in public interest goals that serve:

  - a very broad intended public, and

  - a targeted intended public.

Application: (continued)

- In consideration of GAC's Beijing advice, group agrees that applicants of closed generic gTLDs will need to provide additional information including:

  - Demonstrating that the closed generic gTLD will serve a public interest goal.

  - Applicant will also be expected to identify who will receive the intended benefit of the closed generic gTLD.

  - Group believes a closed generic gTLD should benefit parties beyond the applicant itself

- Applicants would also need to demonstrate and commit to the steps it will take to ensure the closed generic gTLD will serve, and continue to serve the relevant public interest goal(s) it identified.

- Commitments must be objective, measurable and enforceable.

3. Closed Generics: Initial Outputs from facilitated dialogue

<u>Evaluation:</u>

- Group agreed that evaluations of closed generic gTLD applications should follow the standard gTLD application process, including the standard Public Comment and dispute resolution processes.

- Evaluation process should include opportunity for objections.

- Group does not anticipate that closed generic gTLD applications will receive special prioritization in application queuing or contention resolution.

- In addition to standard gTLD process, group expects additional evaluation criteria and process components for closed generic gTLDs.

- Evaluation criteria quill be used to assess the responses and evidence submitted by applicants such as:

    - Commitments to continually serve the public interest goal(s) it identified

- Evaluation criteria must be objective, measurable and enforceable.

- Evaluation process must be predictable.

3. Closed Generics: Initial Outputs from facilitated dialogue

Evaluation: (continued)

- Evaluation criteria must be objective, measurable and enforceable.

- Evaluation process must be predictable.

- Group agrees there is value in an evaluation process with objective criteria and built in flexibility

  - Allows for a variety of public interest goals and applicants

- Group discussed use of a scoring system with a range of possible scores for various criteria as one potential method to evaluate closed generic gTLD applications.

- A panel of individual evaluators may be best suited to make decision about a closed generic gTLD application.

- Additional evaluation elements are continuing topics of discussion, including:

  - Threats and risks associated with closed generic gTLDs

3. Closed Generics: Initial Outputs from facilitated dialogue

Contracting & Post Delegation

- Once closed generic gTLD application is evaluated and found to have met all necessary criteria and process for approval, gTLD can proceed to delegation.

- Group agrees there should be additional requirements for closed generic gTLDs after they are delegated, including:

    - Registry operator must begin operating its closed generic gTLD in the intended manner.

- Due to public interest requirements, group agrees there should be an additional review process post delegation:

    - This review process may include periodic self-certifications from registry operators to ensure they are meeting their commitments.
    - Review should mirror the objective and measurable commitments made by applicant in application.
    - Review could focus on evaluating the mechanisms by which applicant set out to achieve its goal of serving a public interest.

3. Closed Generics: Initial Outputs from facilitated dialogue

Contracting & Post Delegation (continued)

- Applicant will be held accountable for its commitments

    ○ Including enforcement of its contractual commitments by ICANN Compliance.

- Enforceability remains a concern for the group, but group assumes ICANN will be able to enforce relevant obligations.

3. Closed Generics: Next Steps

- Should the GAC and GNSO reach agreement on a framework on closed generics, the broader community will be invited to provide feedback.

- GAC members will have the opportunity to provide feedback on framework for closed generics <u>before</u> a Board decision and the start of a potential policy process:

  - ✓ Unique opportunity for GAC members to engage in a process before it goes to the Board and the start of a potential PDP;

  - ✓ Input provided by GAC members will be considered by dialogue participants prior to finalization of the framework for closed generics;

  - ✓ Timing to be determined, but facilitated dialogue members expressed desire to share outputs with community by ICANN77.

3. Closed Generics: Next Steps

- If the outcome is a mutual understanding that there is a specific policy issue to be worked on and its scope:

  - ✓ Board requests GNSO Council to initiate appropriate GNSO process to conduct the work

    - ■ *This could be an expedited or "regular" Policy Development Process*

  - ✓ If policy work results in specific policy recommendations that are approved by the GNSO Council, the approved recommendations will go through the usual Bylaws-mandated process for Board consideration

    - ■ *This includes a mandatory Public Comment proceeding and GAC notification (with opportunity for the GAC to provide timely advice)*

- Timeline for Board action (if any) depends on outcomes of facilitated dialogue and results of subsequent policy work

- If the dialogue does <u>not</u> result in a mutually agreed framework, the Board will need to consider appropriate next steps.

GNSO Guidance Process - Applicant Support

Maria Gabriela Mattausch, Argentina

4. GNSO Guidance Process on Applicant Support

- In August 2022 the GNSO Council approved the GGP Initiation Request to provide additional guidance to support the eventual implementation efforts relating to the Applicant Support Program
- The working group was formed and began its work in November 2022, following its work plan and timeline.

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

- Group's tasks include:
  - ✓ reviewing historical information about applicant support
  - ✓ identifying subject matter experts
  - ✓ developing data/metrics and measures of success, and
  - ✓ creating methodology for allocating financial support where there is inadequate funding for all qualified applicants.

4. GNSO Guidance Process on Applicant Support

- Once the working group completes all of its tasks, it is expected to produce a GNSO Guidance Recommendation(s) Report, which will be subject to Public Comment.

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

- During ICANN76, the GGP Working Group will hold a working session, aiming to finish consideration of Tasks 3-5 related to metrics and begin discussions of Task 6 related to financing the program.

4. GNSO Guidance Process on Applicant Support

GAC Input on Applicant Support - 1 June 2021

The GAC generally supports the final recommendations on applicant support, noting the importance of extending the scope of the program beyond only economies classified by the UN as least developed and also considering the "middle applicant".

GAC members wish to note the importance of fostering gTLD applications from a diverse array of applicants,which could, inter alia, include regional and local authorities, from all regions and that every effort be made to increase the number of applications from underrepresented regions. In this connection, the GAC reiterates its support for proposals to reduce or eliminate ongoing ICANN registry fees to expand financial support.

The GAC wishes to support ALAC positions (expressed in its Advice to the Board) on the Applicant Support Program, noting that while the SubPro PDP WG has made some recommendations to improve the Applicant Support Program, the lack of specific goals for the program hinders proper evaluation of program objectives and performance.

The GAC would appreciate to be briefed by ICANN Org on the detailed plans for the Applicant support Program well in advance of the launch of any new gTLD program (at least 18 months or so beforehand), thus allowing us also to contribute to the initiative.

GAC Discussion

Jorge Cancio, Switzerland

GAC Input/Discussion

- Priority Topics Identified by the GAC Collective [comment](#) (1 June 2021):

  ➢ Predictability;

  ➢ Registry Voluntary Commitments/Public Interest Commitments;

  ➢ Applicant Support;

  ➢ Closed Generics;

  ➢ Name Collisions;

  ➢ GAC Consensus Advice and GAC Early Warnings;

  ➢ Community Applications;

  ➢ Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets

GAC Input/Discussion

GAC Topic Lead Question for GAC Member Consideration and Discussion:

Has your government considered topics it wishes to identify for GAC Advice to the ICANN Board relative to Subsequent Rounds of gTLDs?

- Do GAC Members wish to develop GAC Advice to the Board on public policy issues relative to the SubPro PDP WG Final Outputs?

- If so, volunteer pen holders?

Annex - GAC Priority Topics

Input submitted by GAC Members in June 2021

GAC Input/Discussion

- Priority Topics Identified by the GAC Collective [comment](#) (1 June 2021):

  ➢ Predictability;

  ➢ Registry Voluntary Commitments/Public Interest Commitments;

  ➢ Applicant Support;

  ➢ Closed Generics;

  ➢ Name Collisions;

  ➢ GAC Consensus Advice and GAC Early Warnings;

  ➢ Community Applications;

  ➢ Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets

Overarching Comments From GAC Comment (June 2021)

- The GAC supports the multistakeholder process, and does not object to the introduction of new gTLDs .

- The GAC asks the Board to **ensure that all the necessary steps and reviews take place before a new round of gTLDs**, inter alia, the CCT-RT review and SSR2 recommendations.

- The GAC continues to **harbour serious concerns regarding the absence of policy recommendations on DNS Abuse Mitigation** in the SubPro PDP WG Final Report, and notes that the WG deemed that such future effort should be holistic and must apply to both **existing** and **new gTLDs**.

Overarching Comments from GAC Comment (June 2021)

- The GAC expects swift action from the GNSO Council in triggering such **holistic effort**, to meet ICANN66 Communique language.
- GAC ICANN70 Communique:

"DNS Abuse should be addressed in collaboration with the ICANN community and ICANN org prior to the launch of a second round of New gTLDs. The GAC supports the development of proposed contract provisions applicable to all gTLDs to improve responses to DNS Abuse. The GAC also emphasized the importance of taking measures to ensure that Registries, Registrars and Privacy/Proxy Services providers comply with the provisions in the contracts with ICANN, including audits. The GAC welcomes the recently-launched DNS Abuse Institute and encourages community efforts to cooperatively tackle DNS Abuse in a holistic manner."

Overarching Comments from GAC Comment (June 2021)

- The GAC does not intend nor wish to unnecessarily delay the process to prepare for a future round of new domain names.

- GAC considers that DNS abuse needs to be addressed and sees value in the SSAC's comment on SubPro that:

   "waiting until efforts to mitigate DNS abuse can be equally applied to all existing and new gTLDs, effectively cedes the ground to malicious actors who can depend upon a long policy development process to hinder meaningful anti-abuse measures."

- The GAC urges the Board and the ICANN community to collectively and meaningfully address this situation.

Overarching Comments from GAC Comment (June 2021)

- The GAC is looking forward to receiving an "*objective and independent analysis of costs and benefits [...], drawing on experience with and outcomes from the*" 2012 round of new gTLDs

- Such objective and independent analysis would allow the GAC to offer further advice ahead of a launch of a new round of gTLDs.

- GAC calls upon the ICANN Board to provide a comprehensive overview and periodic updates of all issues that need to be addressed before the next round of new gTLDs.

GAC Comments by Topic (June 2021)

Predictability:

- Some GAC members continue to have doubts on the SPIRT:

  - Concerns about its added-value, its implementation and the added layer it may create regarding GAC consensus advice.

- GAC seeks clarification on role it will play, and emphasizes importance of the opportunity for equitable participation on an equal footing on the SPIRT by all interested ICANN communities

RVCs/PICs:

- GAC continues to harbour serious concerns regarding the absence of policy recommendations on DNS Abuse Mitigation. Notes that the WG deems that such future effort should be holistic and must apply to both existing and new gTLDs.
- The GAC notes that any future voluntary/mandatory PICs need to be enforceable through clear contractual obligations, and consequences for the failure to meet those obligations should be specified in the relevant agreements with Contracted Parties.

GAC Comments by Topic (June 2021)

Applicant Support:

- GAC members note the importance of fostering gTLD applications from a diverse array of applicants, which could, inter alia, include regional and local authorities, from all regions and that every effort be made to increase the number of applications from underrepresented regions.

- The GAC reiterates its support for proposals to reduce or eliminate ongoing ICANN registry fees to expand financial support.

Closed Generics:

- The GAC is mindful that the issue of closed generics has generated considerable debate and diverse views.
- GAC Members support the proposed suspension of Closed Generic TLD applications until policy recommendations and/or a framework on the delegation of closed generics, which serve a public interest are developed by consensus, as per the ALAC minority statement and subsequent ALAC Advice to the ICANN Board.

Name Collisions:

- GAC notes the importance of ensuring an effective framework for measuring & tackling name collision in further rounds of new gTLDs

- Taking into account the work on name collisions carried out so far by the Name Collision Analysis Project (NCAP).

- GAC draws attention to the SSR2 recommendation 17

- GAC supports the proposed setting of a framework to characterize the nature and frequency of name collisions and resulting concerns, allowing the appropriate handling of sensitive data and security threats.

GAC Comments by Topic (June 2021)

GAC Consensus Advice and GAC Early Warnings:

- GAC does <u>not</u> support the PDP WG recommended limitation on the timing of GAC Consensus Advice on future categories of TLDs and particular applications, oriented to discentivizing any such Advice being submitted after the finalization and publication of the next AGB.

- Rec. 30.4: diverse views within the GAC on the "strong presumption" language.

- Some GAC Members believe that Section 3.1 of the 2012 AGB which states that GAC Consensus Advice *"will create a strong presumption for the ICANN Board that the application should not be approved,"*should be maintained

- Such members consider that this language was part of a delicate compromise during the 2012 round preparations and further consider that it is consistent with past and present Bylaws provisions.

GAC Comments by Topic (June 2021)

Community Applications:
- The GAC supported the proposals in the Sub Pro PDP WG Initial Report for procedures to deal with community-based applications, as consistent with previous GAC advice.
- The GAC notes that consideration should be given to providing support for non-profit community-based applications, which is not included in the final recommendations.

Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets:
- Rec. 35.3: in an attempt to reduce potential gaming, the PDP WG included the need for applications to be submitted with a "bona fide" intention to operate a TLD
- The GAC reiterates concerns on the implementation, and notes that punitive measures for non compliance or submission of a "bona fide" intention are not sufficiently defined.
- Auctions of Last resort, the GAC reaffirms its view that they should <u>not</u> be used in contentions between commercial and non-commercial applications, and private auctions should be strongly disincentivized.

Annexes - ICANN org ODA Slides

Structure of the ODA

Annex #1

Structure of the ODA: Main body

Document Overview

Executive Summary

List of Figures and Tables

1. **General Observations**
2. **Issues**
3. **Dependencies**
4. **Operational Considerations**
   - 4.1. Finance
   - 4.2. Systems and Tools
   - 4.3. Vendors and Third Parties
   - 4.4. Resources and Staffing
   - 4.5. Timeline
   - 4.6. Risks

5. **Overarching Considerations**
   - 5.1. Governance
   - 5.2. Communications, Global Engagement, and Inclusion
   - 5.3. New gTLD Program Foundations *(includes Applicant Support Program and Registry Service Provider Pre-Evaluation)*
   - 5.4. Registry Agreement
   - 5.5. Contractual Compliance
   - 5.6. Data Protection and Privacy
   - 5.7. Security and Stability
   - 5.8. Global Public Interest Framework
6. **Conclusion and Next Steps**

Appendices (see next slide)

Structure of the ODA: Appendices

Appendix 1: Assumptions

Appendix 2: Background and Methodology

Appendix 3: Policy Analysis

Appendix 4: Dependencies

Appendix 5: Topic Analysis

Appendix 6: Business Process Design

Appendix 7: Operational Assessment

Appendix 8: Finance Assessment

Appendix 9: Systems and Tools Assessment

Appendix 10: Vendors and Third Parties

Appendix 11: Communications Strategy

Appendix 12: Timeline

Appendix 13: Risk Assessment

Appendix 14: Global Public Interest Framework

Appendix 15: RSP Pre-Approval, Technical Evaluation, and RST Processes

Appendix 16: Applicant Support Program

Appendix 17: Predictability

Appendix 18: Community Updates and Engagements
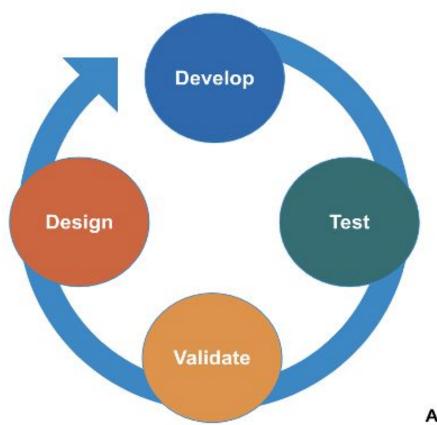
Appendix 19: Alternate Proposals

Index

Glossary

Assumptions

Annex #2

Assumption Life Cycle

Develop	Work Tracks work cross functionally and with Subject Matter Experts to develop draft assumptions
Test	Org shares assumptions with the community and GNSO liaison
Validate	Work Tracks update the assumptions based upon feedback and clarification
Design	Project teams incorporate validated assumptions in their planning

Assumptions will be revisited and revised as the ODP progresses in its work and gains a better understanding of the interdependencies of the Final Report Outputs.

Overarching ODP Assumptions

- **Affirmations** of:
  - 2007 policy recommendations equate to current policy recommendations
  - 2007 Implementation Guidelines will be treated as Implementation Guidance
- The **2012 AGB** represents the **implementation of the GNSO's 2007 policy recommendations** on the introduction of new gTLDs. Not everything in the Guidebook is "policy."
- ICANN org will design the next round processes to be as **predictable** as possible.
- The **Board** will determine which topics or issues will serve as **dependencies or prerequisites** to be addressed prior to the launch of the next round.
- The **org** will determine the specific **scheduling and timing of rounds**.
- **Community reporting** on implementation work will include **general updates** from ICANN org as well as **specific status on topics/outputs.**
- The Program will operate on a **cost recovery** basis.

General Operational Assumptions

- **Application volume** in line with 2012 round (**~2,000**)
- **Applicant Support discounts** funded by the **general application fee**
- **Application fees will be higher than in 2012** due to:
  - New policy requirements,
  - Incremental service improvements
  - Higher evaluation costs (due to inflation and market conditions)
- **Fees for conditional reviews incremental** to base application fee
- Future rounds to include **some development costs for systems and tools**, which may be a result of:
  - Policy updates
  - Updates based on learnings from the prior round
  - A combination of both
- **Scope of work** is based on **Final Report outputs**