

ICANN78 GAC Meeting with GNSO Council

23 October 2023

Agenda

1. **Introduction**
2. **New gTLD Program Next Round**
 - a. Closed Generics (status update)
 - b. GNSO Small Team update on open issues (PICs/RVCs, Appeals, App Support)
 - c. Diacritics in Latin Script (eg., accent, umlaut, tilde) - GNSO Update
3. **IGO Implementation (Curative Rights)**
 - a. Moratorium on IGO acronyms - Status of Board discussions with GAC
 - b. Implementation of Curative Rights - Update from GNSO
4. **DNS Abuse Update:** GNSO update on voting by contracted parties on Amendment and on Future Policy work
5. **WHOIS / Data Protection**
 - a. Access to non-public information, including Urgent requests” (GAC / Registrar Exchange of Letters)
 - b. Accuracy Issue/DPA Status - Both GAC and GNSO Seeking Updates from ICANN
6. **Transparency in GNSO (SOI discussion) - GAC Point of View / GNSO Update**
7. **AOB**
 - a. Auction Proceeds / Bylaw discussion
 - b. GNSO Council changes in leadership and members

2. New gTLD Program Next Round

a. GAC/GNSO facilitated dialogue on Closed Generics (status update)

The GAC and GNSO Council to provide a status update on the [joint communication](#) submitted from the ALAC and GAC Chairs, and the expected letter from the GNSO Council to the Board pertaining to their decisions concerning the facilitated dialogue on Closed Generics, as stated to the facilitated dialogue group on their [joint correspondence](#) submitted on 7 August 2023.

The GAC notes that the facilitated dialogue on closed generics was halted following the ALAC, GAC and GNSO Chairs' [joint correspondence](#) submitted on 7 August 2023.

2. New gTLD Program Next Round

b. GNSO Small Team Update on Open Issues (PICs/RVCs, Appeals, Applicant Support)

The GAC welcomes an update from the GNSO Small Team on Open Issues and recalls GAC advice issued at [ICANN77](#):

- On predictability, the GAC advises 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 Registry Voluntary Commitments (RVCs) / Public Interest Commitments (PICs) in New gTLDs, the GAC advises the Board to ensure that any future 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.

2. New gTLD Program Next Round

b. GNSO Small Team Update on Open Issues (PICs/RVCs, Appeals, Applicant Support) (continued)

- On Applicant Support, the GAC advises the Board:
 - i. To specify ICANN's plans related to steps to expand financial support and engage with actors in underrepresented or underserved regions by ICANN78 in order to inform GAC deliberations on these matters.
 - ii. To take steps to substantially reduce or eliminate the application fees and ongoing ICANN registry fees to expand financial support for applicants from underrepresented or underserved regions.
 - iii. To take timely steps to facilitate significant global diversification in the New gTLD program by ensuring increased engagement with a diverse array of people and organizations in underrepresented or underserved markets and regions, including by:
 - Raising awareness of the Applicant Support Program;
 - Providing training and assistance to potential applicants;
 - Exploring the potential to support the provision of back-end services; and
 - Providing adequate funding for the Applicant Support Program consistent with diversification targets.

2. New gTLD Program Next Round

b. GNSO Small Team Update on Open Issues (PICs/RVCs, Appeals, Applicant Support) (continued)

- On Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs, the GAC advises the Board:
 - i. To take steps to avoid the use of auctions of last resort in contentions between commercial and non-commercial applications; alternative means for the resolution of such contention sets, such as drawing lots, may be explored.
 - ii. To ban or strongly disincentivize private monetary means of resolution of contention sets, including private auctions.

2. New gTLD Program Next Round

c. Diacritics in Latin Script (e.g. accent, umlaut, tilde) - GNSO Update

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. This example of '.quebec' has shed light on this gap. The GAC strongly supports a multilingual internet free from unnecessary barriers in existing policy.

After discussing this issue at length during the IDN-EPDP, it was deemed out of scope for that group. In the [14 September 2023 GNSO Guidance Statement on "quebec"](#), the GNSO Council expressed support for exploring mechanisms to begin this work.

The GAC welcomes an update from the GNSO Council on this matter, including plans for commencing this work.

3. IGO Implementation (Curative Rights)

a. **Moratorium on IGO acronyms - Status of Board discussions with the GAC**

The GAC issued advice to the Board at [ICANN76](#) noting that the GAC advises the Board:

- i. To proceed with the approval of the recommendations of the EPDP on Specific Curative Rights Protections for implementation;

- ii. To maintain the current moratorium on the registration of IGO acronyms as domain names in New gTLDs presently in place until the full implementation of the recommendations of the EPDP on Specific Curative Rights Protections.

3. IGO Implementation (Curative Rights)

a. **Moratorium on IGO acronyms - Status of Board discussions with the GAC (continued)**

In the rationale from the ICANN76 Communiqué, the GAC noted that:

“the GAC affirms that IGOs perform important global public missions with public funds, that they are the unique treaty-based creations of governments under international law, and that their names and acronyms warrant appropriate tailored protection in the DNS in the global public interest to prevent consumer harm. It is also recalled that the EPDP Recommendations strike a balance between rights and concerns of both IGOs and legitimate third parties.

In considering approving the Recommendations of the EPDP on Specific Curative Rights Protections for implementation, the GAC notes that the EPDP Recommendations received Full Consensus, and that the corresponding GNSO Council vote to approve said Recommendations was unanimous.

3. IGO Implementation (Curative Rights)

a. Moratorium on IGO acronyms - Status of Board discussions with the GAC (continued)

Insofar as the above-noted EPDP Recommendations propose targeted amendments to the UDRP Rules to accommodate IGOs in addressing the abuse of IGO identifiers in the DNS, this Advice supersedes those aspects of GAC Advice in the following Communiqués, as follows:

- *In the GAC Los Angeles Communiqué (ICANN51), Section IV.5.b.i, in implementing any such curative mechanism, “the UDRP should not be amended”;*
- *In the GAC Hyderabad Communiqué (ICANN57), Section VI.4.II: “a dispute resolution mechanism modeled on but separate from the UDRP, which provides in particular for appeal to an arbitral tribunal instead of national courts, in conformity with relevant principles of international law”;*
- *In the GAC Johannesburg Communiqué (ICANN59), Section VI.1.a: “The GAC reiterates its Advice that IGO access to curative dispute resolution mechanism should:
 - I. be modeled on, but separate from, the existing [UDRP],*
 - II. provide standing based on IGOs’ status as public intergovernmental institutions, and,*
 - III. respect IGOs’ jurisdictional status by facilitating appeals exclusively through arbitration.”**

3. IGO Implementation (Curative Rights)

a. Moratorium on IGO acronyms - Status of Board discussions with the GAC (continued)

In terms of the continuation of the moratorium, in the ICANN71 Communiqué, in advising the Board to maintain the current moratorium on the registration of IGO acronyms as domain names in New gTLDs pending the conclusion, and implementation, of the Recommendations of the IGO Curative Work Track, the GAC noted that in the absence of access to a curative rights protection mechanism, a mere notification of the registration of a domain name corresponding to its identifier is of no real utility to an IGO, because an IGO has no current ability to arbitrate a domain name dispute. In that same light, the GAC previously has advised the Board to maintain the current moratorium in the ICANN61 San Juan, ICANN62 Panama and ICANN71 Communiqués, noting that the removal of interim protections before a permanent decision is taken on a curative mechanism to protect IGO acronyms could result in irreparable harm to IGOs.”

3. IGO Implementation (Curative Rights)

a. Moratorium on IGO acronyms - Status of Board discussions with the GAC (continued)

The Board provided a response to the GAC via the [15 May 2023 Board scorecard](#), noting:

"The Board acknowledges this advice from the GAC. The Board had previously stated that it intends to instruct ICANN org to provide, as an operational matter, an ongoing notification service that would inform an IGO if a domain name is registered that matches that IGO's acronym. The Board had also informed the GAC that it plans to offer this service at no cost to IGOs, and to maintain the moratorium on second-level registrations matching the list of IGO acronyms until the post-registration notification system is ready. In this regard, the Board acknowledges the GAC's statement that, in the absence of access to a curative rights protection mechanism, a mere notification of the registration of a domain name corresponding to its identifier is of no real utility to an IGO, because an IGO has no current ability to arbitrate a domain name dispute[...]"

3. IGO Implementation (Curative Rights)

a. Moratorium on IGO acronyms - Status of Board discussions with the GAC (continued)

[..] As part of its 30 April resolution adopting the EPDP recommendations on specific curative rights protections for IGOs, the Board requested that ICANN org develop an implementation plan that will include resource estimates and a timeline for implementation. The Board notes that ICANN org uses a default six-month policy change cycle. The Effective Date of a new Consensus Policy (i.e. the date on which ICANN Contractual Compliance will begin enforcement) is, at minimum, six months after ICANN's announcement of the final policy language, developed with the guidance of a community-based Implementation Review Team and Public Comments, and in accordance with ICANN's Consensus Policy Implementation Framework.

In light of the above, the Board plans to make a decision as to when to lift the moratorium when it has more specific information as to the respective timelines for readiness of the permanent post-registration system and the implementation of the EPDP recommendations.”

3. IGO Implementation (Curative Rights)

b. Implementation of Curative Rights - GNSO Update

The GAC welcomes an update from the GNSO Council on the implementation of Curative Rights.

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4. DNS Abuse Mitigation

- a. **Status of Voting by Contracted Parties on Contractual Amendments.**
- b. **Future Policy Work**

5. WHOIS/Data Protection

a. **Access to non-public information, including “Urgent Requests”**

- The GAC is very supportive of the multistakeholder model and would like to find a constructive solution that would address the needs of emergency situations while taking into account the business realities of registrars

b. **Accuracy issue/DPA status - Both GAC and GNSO seeking updates from ICANN**

- The GAC is concerned with the pause of Accuracy Scoping work since November 2022 as signaled in the Washington D.C. Communiqué
- 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).

5. WHOIS/Data Protection

b. Accuracy issue/DPA status - Both GAC and GNSO seeking updates from ICANN (continued)

- The GAC recommended, while the community awaits for 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
- In this respect, the GAC took note of the ICANN Board's response to the Washington DC Communiqué which stated that: *"ICANN is preparing a comprehensive assessment of what activities it may undertake to study accuracy and/or current registration data obligations in light of applicable data protection laws and its contractual authority to collect such data, which it plans to share with the GNSO."*

6. Transparency in GNSO Participation (SOI Discussion)

The GAC welcomes an update on the GNSO Council Committee for Overseeing and Implementing Continuous Improvement (COICI) pertaining to Statements of Interests (SOIs) recalling language from the [GAC ICANN76 Communique](#) which notes:

“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.”

7. Any Other Business

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- a. Auction Proceeds/Bylaws discussion
- b. GNSO Council changes in leadership and members