ICANN | GAC

Governmental Advisory Committee

Hamburg, Germany, 30 October 2023

GAC Communiqué – Hamburg, Germany[1]

The Hamburg Communiqué was drafted and agreed in a hybrid setting, during the ICANN78 Annual General Meeting, with some GAC participants in Hamburg, Germany, and others remotely. The Communiqué was circulated to the GAC immediately after the meeting to provide an opportunity for all GAC Members and Observers to consider it before publication, bearing in mind the special circumstances of a hybrid meeting. No objections were raised during the agreed timeframe before publication.

I. Introduction

The Governmental Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN) met in Hamburg, Germany, in a hybrid setting including remote participation from 21 to 26 October 2023.

Ninety three (93) GAC Members and eight (8) Observers attended the meeting.

The GAC meeting was conducted as part of the ICANN78 Annual General Meeting. All GAC plenary and working group sessions were conducted as open meetings.

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[1] To access previous GAC Advice, whether on the same or other topics, past GAC communiqués are available at: https://gac.icann.org/

II.   Inter-Constituency Activities and Community Engagement

Meeting with the ICANN Board

The GAC met with the ICANN Board and discussed:
- New gTLD Program Next Round
- DNS Abuse
- Registration Data Policy
- GNSO Statements of Interest (SOI); and
- Internet Governance Developments

Meeting with the At-Large Advisory Committee (ALAC)

The GAC met with members of the ALAC and discussed:
- Follow-up on the 2017 Joint GAC/ALAC Advice to the Board entitled "Enabling Inclusive, Informed and Meaningful Participation at ICANN: a Joint Statement by ALAC and GAC"
- Closed Generics including the joint GAC/ALAC letter to the ICANN Board
- Contention Resolutions in new gTLDs including a presentation on closed bid auctions.

Meeting with the Generic Names Supporting Organization (GNSO)

The GAC met with members of the GNSO Council and discussed:
- New gTLD Program Next Round
- IGO Curative Rights Protection Mechanism Implementation
- DNS Abuse
- WHOIS/Data Protection; and
- Transparency in GNSO (Statement of Interest discussion)

III. Internal Matters

1. GAC Membership

There are currently 182 GAC Member States and Territories and 38 Observer Organizations.

2. GAC Elections

The GAC elected as Vice-Chairs for the term starting after ICANN79 (March 2024) and ending at the close of ICANN82 (March 2025):

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

3. GAC Working Groups

- **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.

Finally, the PSWG extends its sincere appreciation to Chris Lewis-Evans for his exemplary service as a PSWG co-chair – his participation and leadership within the PSWG will be missed.

- **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 with an introduction to the upcoming High Level Government Meeting (HLGM) that will be held during ICANN80 in Rwanda. A technology day was delivered as agreed by the GAC during ICANN77 to incorporate emerging technologies in the CDW program.

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

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.

- **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. The working group will resume its meetings post ICANN78 and update the GAC of their intersessional work at ICANN79.

4. GAC Capacity Development

At the beginning of the meeting week, the GAC conducted a well-attended, productive, and informative two-day capacity development workshop featuring several topics of interest to GAC participants.

Day 1 focused on ICANN and 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 and providing information on the next GAC High Level Government Meeting. The GAC would like to thank the ICANN Government Engagement team for its efforts in constructing the program.

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 emphasizes 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. The GAC would also like to thank the ICANN Office of the Chief Technology Officer (OCTO) for its efforts in helping to organize this informative session.

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.

5. GAC Operational Matters

GAC Members exchanged views regarding the GAC's current relationship with and potential for future participation in the ICANN Nominating Committee (NomCom). It was agreed that this topic will be further explored in future discussions among the GAC Chair and Vice Chairs team to inform further committee discussion of options for contributing to the work of the NomCom.

IV. Issues of Importance to the GAC

1. High Level Government Meeting (HLGM)

The GAC welcomes the invitation from the Government of Rwanda to the next High-Level Government Meeting (HLGM) in Kigali on 9 June 2024. This meeting will be held ahead of the ICANN80 Policy Forum scheduled for 10-13 June 2024, offering potential opportunities for participation throughout this meeting. The GAC agreed to pursue the matter and finalize topics of interest to be covered during the HLGM. GAC representatives are also invited to inform the Rwandese hosts of the names and contact details of the high-level representatives to be invited at the earliest convenience, for the invitations to be sent in November, together with a proposed agenda.

2. Future Rounds of New gTLDs

- ● **Auctions: Mechanisms of Last Resort/Private Resolution of Contention Sets in New gTLDs**

The GAC takes note of the Board's decision per the September Scorecard on GAC Advice to defer GAC Advice on auctions in New gTLDs as policy recommendations on this topic are under discussion. The GAC further notes that the Board is engaging an expert to analyze the issue, and looks forward to continued engagement with the Board and community on this matter prior to a Board decision.

- ● **Latin Script Diacritics[2] in New Generic Top Level Domains (gTLDs)**

The GAC notes that a potential gap in policy has been identified on the use of diacritics characters in the Latin script. The GAC strongly supports a multilingual Internet free from barriers in existing policy and looks forward to continued engagement with the GNSO Council on this issue, and to reviewing the anticipated GNSO Council's Issue Report on this topic.

- ● **GAC Consensus Advice and Early Warnings on new gTLD Applications**

In view of the changes to the future Applicant Guidebook regarding the "strong presumption" language, pursuant to recommendation 30.4 of the GNSO SubPro Recommendations, the GAC expresses its understanding that such wording modifications do not affect nor change in any way, shape, or form the high importance attached to GAC Consensus Advice by the ICANN Board whenever issued regarding applications under the future Applicant Guidebook.

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[2] Diacritics in the Latin script are modifiers surrounding basic letter shapes, generally recognized as distinct graphic elements to form new letters, such as accents. See Background Briefing to the GNSO Council (25 October 2023).

Some GAC members also noted surprise at the promptness with which the Board proceeded to accept recommendation 30.4, following intersessional engagement between the GAC and the Board. Some GAC members had proposed adjustments to that language rather than omitting it altogether, pointing to its political significance beyond the legal implications listed by ICANN org and the Board.

- **New gTLD Applicant Support Program**

The GAC welcomes efforts to take forward a successful Applicant Support Program (ASP) in various areas of the ICANN community, including through the Implementation Review Team's (IRT) work on applicant support and the GNSO Guidance Process Working Group (GGP) on the ASP. The GAC thanks 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 New 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 Applicant Support Program 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"[3] and utilizing an ASP incubator.

The GAC welcomes the ICANN Board's commitment to the ASP and thanks the Board for its valuable input on the ICANN77 GAC advice on this matter 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 sub-track will help address these useful points and recalling the GAC's previous work to agree on parameters on underserved regions[4].

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[3] ALAC Statement on Subsequent Procedures Recommendation 17.2 on Applicant Support (18 August 2023)
[4] For parameters on underserved regions see the GAC USRWG Terms of Reference

3. Registration Data Request Service (RDRS)

The GAC welcomes the launch of the voluntary Registration Data Request Service (RDRS) this coming November. The GAC encourages its members to inform their respective relevant communities of the launch. Widespread use of the new system from both registrars and requesters will help the system meet its intended purpose of gathering sufficient data to inform the ICANN Board's consideration of the policy recommendations related to a future System for Standardized Access and Disclosure (SSAD) of domain name registration data. To promote usage, the GAC notes that the Board urged the GNSO Council to consider a Policy Development Process or other means to *require* registrars to use the RDRS[5]. The GAC remains supportive of this idea.

Other factors that will impact usage relate to whether users submitting legitimate requests receive data relating to the underlying registrant as opposed to information related to a privacy or proxy service. Currently, many leading registrars provide privacy/proxy services to registrants by default. ICANN org's Operational Design Assessment (ODA) of the SSAD analyzed the potential adverse impacts on that system noting that "*Requestors may feel confused or frustrated with the system if they don't receive the registrant data they seek due to proxy or privacy service use*" and that this risks "*significant user confusion and/or dissatisfaction.*"[6]

The GAC highlights these risks because Registrars, including those that provide privacy/proxy services directly for their registrant customers, will have discretion on how to respond to requests. The GAC observes that the RDRS's success depends in part on how satisfied users are with the system with positive experiences promoting repeat usage.

Finally, the GAC also encourages users of the system to provide feedback on the effectiveness of the RDRS.

4. Urgent Requests for Disclosure of Registration Data

The GAC welcomes the Board's reaction to the letter sent on 23 August 2023[7] in which the GAC asked the Board to reconsider the publication of the proposed Registration Data Consensus Policy for gTLDs and expressed its public policy concerns on the appropriate timeline to respond to requests for registration data in select emergency circumstances, known as "Urgent Requests". The GAC supports the initiative of the Board to separate the topic of Urgent Requests from the publication of the overarching Registration Data Consensus Policy for gTLDs and to speedily continue discussions on the former to achieve an outcome which is acceptable to all parties.

The GAC reiterates that "*the proposed outcome of up to three business (not calendar) days to respond to the narrowly defined category of "urgent" requests for domain name registration data does not serve its intended purpose*" and that the use of "business" and not "calendar" days is particularly problematic in this respect as it can lead to significant delays and would vary across different jurisdictions, leading to uncertainty. The GAC also recalls that in April 2023 the ICANN org

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[5] ICANN Board Resolution on WHOIS Disclosure System Implementation (27 February 2023)
[6] SSAD Operational Design Assessment (25 January 2022) at pp.19-20
[7] GAC Correspondence to ICANN Board Chair: Timeline to Respond to Urgent Requests for Disclosure of Domain Name Registration Data (23 August 2023)

Implementation Project Team (IPT) carefully reviewed the public input received and concluded that there was *"sufficient justification to revisit the policy language and to require a 24-hour response time for urgent requests."*

The GAC looks forward to the early reopening of the discussions with the community, also based on the further input which is expected to be provided by the Security Stability Advisory Committee (SSAC), with the objective of achieving "*an outcome that better meets the public safety considerations posed by urgent requests*".

Because of the vital public safety interest implicated by Urgent Requests, the GAC emphasizes the need to commence and conclude this implementation work as soon as possible. Further, this work should include accreditation issues, among others.

5. DNS Abuse

During ICANN78, the GAC welcomed updates on advancements in DNS Abuse measurement, examples of DNS Abuse mitigation solutions, and an update from the ccNSO DNS Abuse Standing Committee.

The GAC urges the Contracted Parties to adopt the DNS Abuse amendments so that baseline obligations for gTLD registries and registrars regarding DNS Abuse are established in ICANN's contracts. The GAC also urges ICANN org to provide the community with the ability to monitor the implementation of the amendments.

At the same time, the GAC notes with disappointment that suggestions made in its submission to the public consultation on the contract amendments were not reflected in the final amendments or Advisory. The GAC underlines the importance of taking GAC input into account in future work. In particular, the GAC reiterates the importance of considering proactive monitoring and transparency of reporting. The GAC also recalls the practical need to recognize the inevitable evolution of DNS Abuse, including how it is defined in the amendments, as well as abuse report handling, tackling systemic abuse and additional reporting and data collection requirements.

Once the amendments are adopted, the GAC intends to engage with the community in discussions on policy efforts around the above mentioned topics as well as other key themes linked to effective implementation of the amendments, such as clarification of key terms from the amendments (i.e., "reasonable", "actionable", "prompt"), and further actions to mitigate DNS Abuse, such as capacity building efforts.

Finally, the GAC recognizes that the accuracy of domain name registration data as it pertains to DNS Abuse remains an ongoing topic of great interest to be pursued.

6. Transparency and GNSO Statements of Interest (SOI)

The GAC strongly supports transparency at ICANN and takes note of ongoing discussions within the GNSO and the work conducted by the GNSO Council Committee for Overseeing and Implementing Continuous Improvement (CCOICI) on the Review of the Statement of Interest (SOI) Requirements. The GAC notes that the GNSO Council motion on this matter on 25 October 2023 was not adopted.

The GAC expresses ongoing concerns, as noted in the GAC ICANN76 Communiqué, 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. Section 3.1 of ICANN's Bylaws state that "*ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness*". Transparent disclosure of interests represented in GNSO working groups is part of the basis of credibility and legitimacy of ICANN's multistakeholder model.

The GAC looks forward to continued engagement with the GNSO, Board and community on this issue.

7. Emergency Assistance Program for Continued Internet Access

While the GAC acknowledges the information previously shared by the Board, the GAC reiterates its interest in having further details on criteria, dates and updates related to the Emergency Assistance Program for Continued Internet Access.

V.   GAC Consensus Advice to ICANN Board

The following items of advice from the GAC to the Board have been reached on the basis of consensus as defined in the ICANN Bylaws[8]:

1. Closed Generic gTLDs

The GAC expresses its appreciation for the efforts of the participants in the GAC, GNSO and ALAC Facilitated Dialogue on Closed Generics.

a.   The GAC advises the Board:

i.   Prior to the next round of New gTLDs, to ensure that the forthcoming Applicant Guidebook clearly states that Closed Generic gTLD applications will not be considered.

RATIONALE

The GAC offers this advice in recognition of the support of the message from the Chairs of the ALAC, GAC, and GNSO to the participants of the facilitated dialogue that "*unless and until there is a community-developed consensus policy in place, any applications [for closed generic gTLDs] [...] should not proceed.*"[9]

A clear statement in the Applicant Guidebook will help potential applicants to avoid confusion and possibly the waste of resources.

Additionally, the GAC recalled in its Comment on the Draft Framework for Closed Generics (15 July 2023)[10] its concerns on "*competition issues, the overall assessment of the value of Closed Generic TLD for the Internet, their potential negative economic and social impacts, and the evaluation panel*". The good faith deliberations that took place in the Facilitated Dialogue addressed directly the question of whether Closed Generics could serve a "public interest goal" (as advised in the 2013 Beijing Communiqué) without reaching a solution garnering consensus within the community. The GAC further underlines the importance to promote an open digital space and is of the view that under these circumstances determining and arbitrating whether a proposed closed gTLD would meet a public interest goal would likely create significant costs without providing any corresponding benefit.

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[8]   Bylaws section.12.2.(a)(x) The advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the Board determines to take an action that is not consistent with Governmental Advisory Committee advice, it shall so inform the Governmental Advisory Committee and state the reasons why it decided not to follow that advice. Any Governmental Advisory Committee advice approved by a full Governmental Advisory Committee consensus, understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection ("GAC Consensus Advice"), may only be rejected by a vote of no less than 60% of the Board, and the Governmental Advisory Committee and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution. The Governmental Advisory Committee will state whether any advice it gives to the Board is GAC Consensus Advice.

[9]   ALAC, GAC, GNSO Chairs Letter to Facilitated Dialogue Participants (7 August 2023)

[10]   Governmental Advisory Committee (GAC) Comment on the Draft Framework for Closed Generics (15 July 2023).

VI. Follow-up on Previous Advice

The following items reflect matters related to previous Consensus Advice provided to the Board.

1. Enabling Inclusive, Informed and Meaningful Participation in ICANN

The GAC would welcome a written status update from the Board on the activities adopted and implemented by ICANN org pursuant to the ICANN60 GAC Abu Dhabi Communiqué Advice regarding the development of a simple and efficient document management system and the production of easily understandable executive summaries for all relevant issues, processes and activities.

2. Future gTLDs Policies and Procedures

The GAC recalls its advice to the Board in the ICANN56 GAC Helsinki Communiqué (30 June 2016) that "*An objective and independent analysis of costs and benefits should be conducted beforehand, drawing on experience with and outcomes from the recent round.*" So far the GAC is not certain of the availability of such analysis called for by the GAC. The GAC is looking forward to receiving such analysis at the earliest opportunity and ahead of ICANN79.

VII. Next Meeting

The GAC is scheduled to meet next during the ICANN79 Community Forum in San Juan, Puerto Rico, on 2-7 March 2024.