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ICANN75 GAC Discussion on Subsequent Rounds of New gTLDs

19 September 2022

Agenda

1. Introduction - GAC Chair
2. Recent Developments - GAC Topic Leads (10 minutes)
3. Closed Generics Overview - GAC Topic Leads (30 minutes)
 - a. What is the issue?
 - b. GAC positions
 - c. GAC/GNSO Facilitated Process on Closed Generics - Review of Briefing Paper/Problem Statement - Mary Wong (ICANN Org)
4. GAC Input/Discussion on Closed Generics (All) (20 minutes)
5. GNSO Guidance Process (GGP) - Applicant Support, Outreach (10 minutes)
6. AOB



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);
- ICANN org [launched](#) an **Operational Design Phase** (ODP) on [Sub Pro PDP WG Final Report](#);
- The Operational Design Assessment (ODA) is planned for delivery to the ICANN Board by the 12 Dec. 2022;
- A 6-week delay was included in the updated ODP Timeline due to the anticipated impact of the WHOIS Disclosure System Paper;
- As part of the ODP work, ICANN org identified several policy issues for the ICANN Board to address, including **Closed Generics** - due to lack of agreement and recommendations on the SubPro PDP WG Final Report on this topic;
- 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);
- Discussion yet to begin, based on Problem Statement and Briefing Paper (drafted 5 September 2022) - Initial/informal connection of group likely during ICANN75

2. Recent Developments & Next Steps

- GAC [responded favorably](#) to the ICANN Board's request to take part in a facilitated dialogue on the issue of closed generics, and confirmed [agreement](#) on selection of Melissa Peters Allgood (ICANN org) as facilitator for the effort
- Balanced representation from both groups was encouraged, and will include 6 participants from the GNSO Council, 6 from the GAC and 1 participant from the ALAC (including an alternate).
- GAC Confirmed Participants for Closed Generics Dialogue:
 - Manal Ismail, GAC Chair
 - Jorge Cancio, Switzerland and GAC Topic Lead
 - Luisa Paez, Canada and GAC Topic Lead
 - Nigel Hickson, UK
 - Ronke Sola- Ogunsola, Nigeria
 - Ian Sheldon, Australia



2. Recent Developments & Next Steps

- GAC/GNSO Council dialogue on Closed Generics expected to **start** post ICANN75;
- Should the GAC and GNSO reach agreement on a framework on closed generics, the broader community will be invited to provide feedback.
- Following community input, the proposed framework – if agreed upon – can be considered through the appropriate GNSO policy development process.
- If the dialogue does not result in a mutually agreed framework, the Board will need to consider appropriate next steps.
- GAC Members may consider issuing GAC Advice on closed generics or any of the other SubPro related topics at any given time during the ODP and Board consideration of the SubPro final report.



2. Recent Developments & Next Steps

Now that the ICANN Board has triggered an **Operational Design Phase**, next steps with varying timelines include:

- i. ICANN org to conduct ODP and deliver Operational Design Assessment (ODA) to the ICANN Board for consideration
- ii. ICANN Board consideration of the PDP recommendations as adopted by GNSO Council - opportunity for GAC Consensus Advice to the ICANN Board;
- iii. ICANN Board vote;
- iv. ICANN org (as directed by the Board) to begin implementation of the policy recommendations (which will likely include a revised Applicant Guidebook).

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

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

3. Closed Generics

Jorge Cancio, GAC Topic Lead (Switzerland)
Manal Ismail, GAC Chair

3. Closed Generics: GAC Positions

GAC ICANN46 Beijing Communiqué (11 April 2013)

“The GAC Advises the ICANN Board:

2. Exclusive Access

- *For strings representing generic terms, exclusive registry access should serve a public interest goal.”*

Beijing Communiqué language reaffirmed/supported by the GAC:

- [Response to Sub Pro PDP CC2 \(22 May 2017\)](#):
 - Based on principles of promoting competition and consumer protection, exclusive registry access should serve the public interest goal (per Beijing GAC Communiqué Cat. 2 Safeguards Advice)
- [Comment on Sub Pro PDP Initial Report \(8 October 2018\)](#)
 - Re-affirms previous advice (Beijing Communiqué, Cat. 2 Safeguards): for strings representing generic terms, exclusive registry access should serve a public interest goal
- [ICANN68 GAC Communique \(27 June 2020\)](#):
 - Some GAC members expressed the view that the lack of a formal PDP WG recommendation on the delegation of closed generics would imply that the relevant Board Resolution from the 2012 round would still apply.

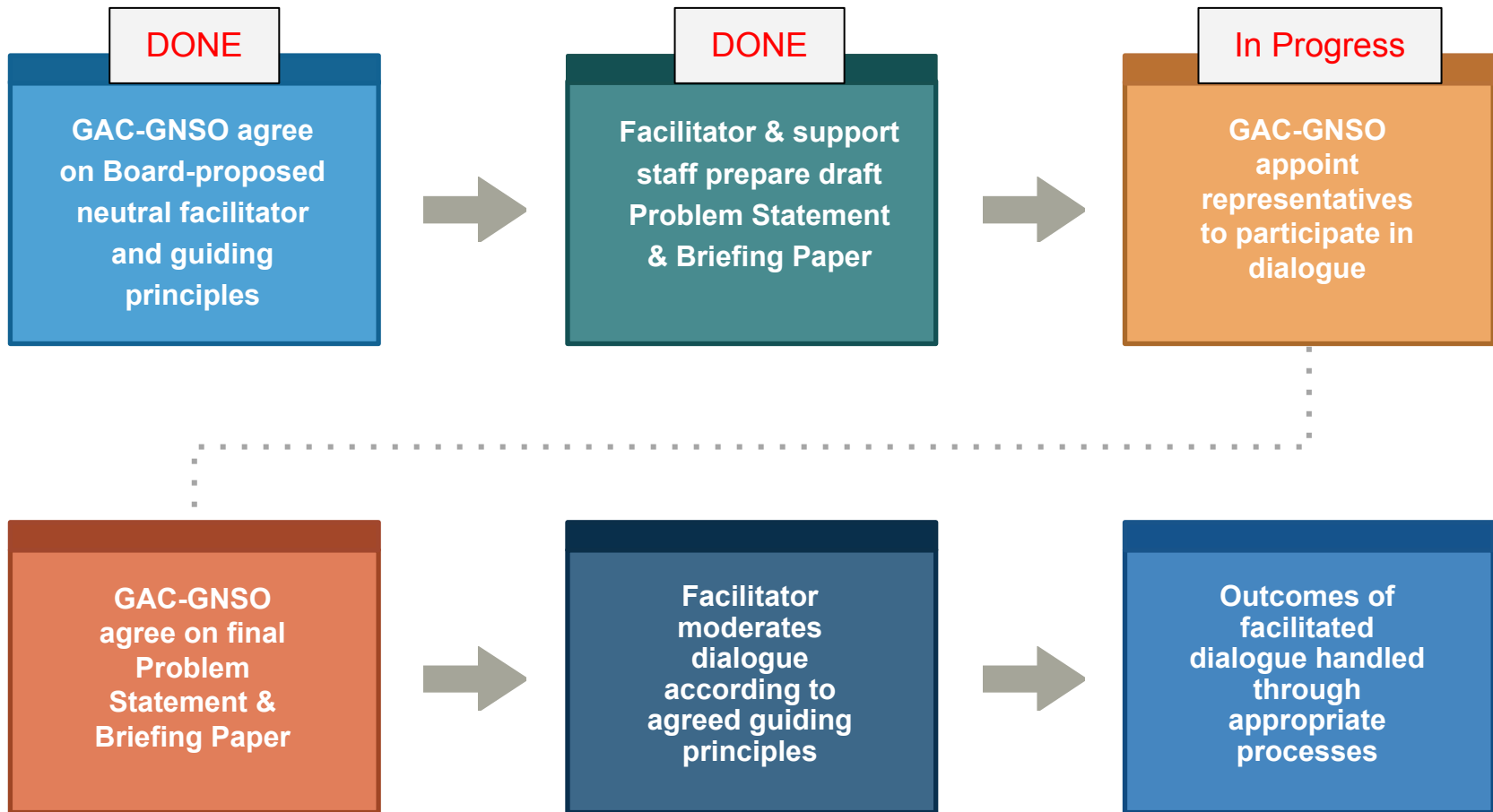
Closed Generics: GAC Positions (continued)

- [GAC Comment on Subsequent Rounds of New gTLDs PDP WG - Final Report - 1 June 2021](#)
 - “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.
 - The GAC continues to support the retention of the advice contained in the GAC Beijing Communiqué whereby “*exclusive registry access should serve the public interest goal*” and that adequate means and processes are defined to ensure that public interest goals are met.
 - The burden of demonstrating the public interest benefit of a closed generic string should rest with the applicant and be subject to comments during the review process.
 - As no agreement has been found within the PDP WG, the GAC encourages the Board to take the necessary steps for starting outcome-oriented community discussions to identify criteria as to how to assess “public interest” within closed generic TLDs.”

GAC/GNSO Dialogue on Closed Generics - Review of Briefing Paper/Problem Statement

Mary Wong, ICANN org

GAC-GNSO Facilitated Dialogue: Suggested Process



Note: Dialogue will be recorded, and transcripts published for transparency

Managing Outcomes of the Facilitated Dialogue

- 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

GNSO Guidance Process - Applicant Support

Jeff Neuman, GNSO Council Liaison to the GAC

GNSO Guidance Process (GGP)

- GNSO Council [approved](#) the **GNSO Guidance Process (GGP) [Initiation Request](#)** for Select New gTLD Subsequent Procedures (SubPro) Topics (25 August 2022).
- The SubPro Final Report envisioned some levels of substantive work taking place during the Implementation Review Team (IRT) phase of the work, after the ICANN Board adoption of the recommendations.
 - Topic 17: **Applicant Support**, Implementation Guidance 17.5 of the SubPro Final Report suggests creating a dedicated IRT and charging it *"with developing implementation elements of the Applicant Support Program. In conducting its work, the Implementation Review Team should revisit the 2011 Final Report of the Joint Applicant Support Working Group as well as the 2012 implementation of the Applicant Support program."*
- After the submission of the Final Report, community members made informal requests to the ICANN staff and the ICANN Board that formation of this "dedicated IRT" be expedited (i.e., before the ICANN Board approves the Final Report).
- The GNSO Council is committed to providing guidance on select topics, such as Applicant Support, and has determined that **this is best accomplished via this GGP.**

GNSO Guidance Process (GGP)

- **Recommendation 17.3:**

The Working Group recommends that ICANN **improve outreach, awareness-raising, application evaluation, and program evaluation elements** of the Applicant Support Program, as well as **usability** of the Program, as proposed in the implementation guidance below.

- **Implementation Guidance 17.5:**

A dedicated Implementation Review Team should be established and charged with developing implementation elements of the Applicant Support Program. In conducting its work, the Implementation Review Team should revisit the 2011 Final Report of the Joint Applicant Support Working Group as well as the 2012 implementation of the Applicant Support program.

GNSO Guidance Process (GGP)

- The GGP will operate as a Working Group, which may initiate sub-teams if the need arises.
- WG will employ a “Representative + Observers” model, consisting of Members and Observers.
- As this GGP builds on the existing SubPro work and is intended to conclude in an expeditious manner, Members must either possess a level of expertise in previous deliberations and/or knowledge that may have been lacking during those initial deliberations.
- GAC representation: The **GAC may appoint 1 Member** to take part in this Working Group.

GNSO Guidance Process (GGP)

Timing:

- The working group is expected to deliver its work-plan to the GNSO Council as its first deliverable.
- Expectation for GGP concluding its work prior to the SubPro IRT commencing its work on Applicant Support.
- GNSO Council expressly acknowledges that the deliverables from the GGP may occur after the ICANN Board makes a decision on the Outputs from the New gTLD Subsequent Procedures Final Report, and that the GGP is NOT intended to delay the vote of the ICANN Board on such Outputs.

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 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?

Questions?

Interest in joining the GAC SubPro mailing list? → contact gac

Annex - GAC Priority Topics

Jorge Cancio, Switzerland

GAC Input/Discussion

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 - Predictability;
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 - Name Collisions;
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 - Community Applications;
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Overarching Comments From GAC Comment

- 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

- 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

- 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

- 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

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.

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 Consensus Advice and GAC Early Warnings:

- GAC does not 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.

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 not be used in contentions between commercial and non-commercial applications, and private auctions should be strongly disincentivized.