31 December 2015

GNSO Review of the Dublin GAC Communiqué

From: The GNSO Council
To: ICANN Board
Cc: Thomas Schneider, Chair, GAC

Dear Members of the ICANN Board,

On behalf of the GNSO Council, I'm hereby transmitting to you the GNSO Council's review of the Dublin GAC Communiqué, which is an effort to provide feedback to you as members of the ICANN Board on issues in the GAC Communiqué as these relate to generic top-level domains. The intent is to inform you as well as the broader community of past, present or future gTLD policy activities that may directly or indirectly relate to advice provided by the GAC.

As communicated to you following the Buenos Aires meeting, this review is also part of our continuing dialogue with the GAC to facilitate early engagement in GNSO policy development activities and as such, I am also be sharing this communication with the GAC Chair for distribution to the GAC membership.

The GNSO Council hopes that the input provided through its review of the GAC Communiqué will further enhance the co-ordination and promote the sharing of information on gTLD related policy activities between the GAC, Board and the GNSO.

James Bladel
Chair, ICANN GNSO Council

GNSO REVIEW OF THE DUBLIN GAC COMMUNIQUE[1]

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
1. gTLD Safeguards: Current Rounds	Consistent with its Buenos Aires Communiqué, the GAC is seeking a clear record of the ICANN Board's acceptance or rejection of GAC Safeguard Advice. This would optimally be provided in the form of a scorecard that includes a) what elements of GAC advice have been implemented; b) what remains a work in progress; and c) what has not been accepted for implementation, with a clear rationale for not being accepted. The GAC reiterates its advice that the New gTLD Program	Yes	Existing: new gTLD Policy (see http://gnso.icann.org/en/group-activities/inactive/2007new-gtld-intro) New gTLD Subsequent Rounds Final Issue Report (http://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-final-issue-04dec15-en.pdf)	A Preliminary issue report on new gTLD Subsequent rounds was requested, as described in Buenos Aires report The GNSO Council has received the Final Issue report. A motion to initiate the PDP and adopt the charter for the PDP Working Group are on the agenda for the 17 DEC GNSO Council meeting

1 Only of "Section V of the Communiqué: GAC Advice to the ICANN Board"

2 As per the ICANN Bylaws: 'There shall be a policy-development body known as the Generic Names Supporting Organization (GNSO), which shall be responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains.

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
	Committee create a list of commended Public Interest Commitment (PIC) examples related to verification and validation of credentials for domains in highly regulated sectors to serve as a model of best practices for gTLD registry operators. Such a compendium would also permit an assessment of the success of the PIC specifications for strings representing highly regulated sectors, and will also facilitate the incorporation of such safeguards into contracts in future new gTLD rounds.			

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
	In light of the current and upcoming reviews of the New gTLD program, **The GAC advises and urges the Board to:** i. develop and adopt a harmonized methodology for reporting to the ICANN community the levels and persistence of abusive conduct (e.g., malware, botnets, phishing, pharming, piracy, trademark and/or copyright infringement, counterfeiting, fraudulent or deceptive practices and other illegal conduct) that have occurred in the rollout of the new gTLD program. The GAC was informed that independent studies presented during the ICANN 54 meeting on the review of the New gTLD round show a	Yes	The GNSO chartered a working group to develop recommendations to better define the collection & reporting of critical data and metrics to help inform policy development activities. Some of the recommendations of the WG could prove useful in understanding and addressing these issues. See http://gnso.icann.org/en/group-activities/active/dmpm.	The GNSO has approved the final report of the "Data and Metrics" PDP in October: http://gnso.icann.org/en/council/resolutions#20151021-1. These recommendations are now in the process of being implemented

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
	relatively low level of trust in these gTLDs by consumers compared to existing TLDs.			
Future gTLD Rounds	**The GAC advises the Board that** i. before defining the modalities for future rounds, a rigorous assessment of all public policy related aspects of the current round should be undertaken, taking into account the advice given by the GAC on this subject since the beginning of the New gTLD process, including advice relating to community-wide engagement on the issues of communication to and access by developing countries and regions; and	Yes	A Preliminary issue report on new gTLD Subsequent rounds was requested, as described in Buenos Aires report. The Preliminary Issue Report was published on 21 August and the public comment period on that Report closed on 30 October. The Final Issue Report was delivered to the GNSO Council on 4 December. The GNSO Council will consider during its meeting on 17 December whether to initiate a PDP on this topic. New gTLD Subsequent Rounds Final Issue Report (http://gnso.icann.org/en/issues/new-gtlds/subsequent-	Work is underway on numerous PDPs and other efforts relating to public policy, including: • Competition, Consumer Trust, Consumer Choice (CCT) Review Team • Review of Rights Protection Mechanisms (RPMs) and the Trademark Clearinghouse (TMCH) • CWG – Country and Territory names, referred to in the Dublin Communiqué as being chartered by the ccNSO, but in fact is a CWG chartered by both the

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
	advice regarding past policy decisions taken by the Board to reserve the Red Cross and Red Crescent designations and names. In this regard, the GAC expects that those elements of the current framework for new gTLDs that are considered appropriate by the GAC will remain and that the elements that are not considered satisfactory will be improved for subsequent rounds.		procedures-final-issue-04dec15-en.pdf)	ccNSO and the GNSO In relation to the Red Cross and Red Crescent designations and names, there are still a number of outstanding recommendations from the Protection of IGO names in all gTLDs that are awaiting Board consideration while others are already in the implementation phase.

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
3. Protection for IGOs	**The GAC advises the Board to** i. facilitate the timely conclusion of discussions of the "small group" and the NGPC in an effort to resolve the issue of IGO protections.	Yes	Protection of IGO and INGO Identifiers in All gTLDs Policy Development Process (see http://gnso.icann.org/en/group-activities/active/igo-ingo) IGO-INGO Access to Curative Rights Protection Mechanisms Policy Development Process (http://gnso.icann.org/en/group-activities/active/igo-ingo-crp-access)	The PDP has engaged an independent expert (Professor Edward Swaine, George Washington University Faculty of Law) to advise on sovereign immunity issues. The PDP will resume shortly following receipt of Professor Swaine's advice.
4. Community Priority Evaluation	**a. The GAC advises the Board that:** i. the GAC reiterates previously expressed concerns that the Community Priority Evaluation (CPE) process has not met the		Existing: new gTLD Policy (see http://gnso.icann.org/en/group-activities/inactive/2007/new-gtld-intro) New gTLD Subsequent Rounds Final Issue Report (http://gnso.icann.org/en/iss	To be noted in future policy development process

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
	expectations of applicants and notes that all the successful applications are currently the subject of dispute resolution procedures; ii. the GAC expects the current specific problems faced by individual applicants to be resolved without any unreasonable delay, and in a manner in which justified community interests are best served; iii. the GAC notes possibly unforeseen consequences for community applicants of recourse by competing applicants to other accountability mechanisms; and the specific challenges faced by some community		ues/new-gtlds/subsequent-procedures-final-issue-04dec15-en.pdf)	

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
	applicants in auctions when in competition with commercial applicants; iv. the GAC will take into account the final report of the ICANN Ombudsman on this issue when preparing the GAC's input into the GNSO's review of issues for improving procedures relating to community-based applications in the next gTLD round; and the Competition, Trust and Consumer Choice Review (CCT) under the Affirmation of Commitments.			

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
5. Use of 2-letter Country Codes and Country Names at the Second Level	The GAC notes that the process for considering comments for two-character letter/letter labels launched on the 6th October 2015 is not consistent with GAC advice which recommended that governments´ comments be fully considered. That advice was accepted by Board resolution 2015.02.12.16. GAC Members have now been asked to clarify which specific TLDs their comments pertain to, and to explain how the release of the two-letter label will cause confusion with their corresponding country code. The GAC reiterates its advice on this issue and	Yes	Existing: new gTLD Policy (see http://gnso.icann.org/en/group-activities/inactive/2007/new-gtld-intro) New gTLD Subsequent Rounds Final Issue Report (http://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-final-issue-04dec15-en.pdf)	The GNSO notes that the RySYG has sent a letter to the Board on this matter, and is examining the issue to determine an appropriate response.

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
	a. advises the Board that: i. comments submitted by the relevant Governments be fully considered regardless of the grounds for objection.	Yes	Existing: new gTLD Policy (see http://gnso.icann.org/en/group-activities/inactive/2007/new-gtld-intro) New gTLD Subsequent Rounds Final Issue Report (http://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-final-issue-04dec15-en.pdf)	The GNSO will discuss this issue and determine the appropriate response, if any, upon becoming aware of any comments submitted by governments.
	b. The GAC further advises the Board to: i. be mindful of governments´ capacity limitations and asks the Board to facilitate simplification of the process for providing comments to address their concerns.	Yes	Existing: new gTLD Policy (see http://gnso.icann.org/en/group-activities/inactive/2007/new-gtld-intro) New gTLD Subsequent Rounds Final Issue Report (http://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-final-issue-	The GNSO is fully aware of the pressing workload considerations which are besetting all volunteers, and notes the concerns expressed by GAC members.

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
			04dec15-en.pdf)	
	c. With respect to new requests for release, the GAC advises the Board to: i. task ICANN to work with the GAC Secretariat to address the technical issues with comment forms and in the interim ii. offer alternative means for comments.	Yes	Existing: new gTLD Policy (see http://gnso.icann.org/en/group-activities/inactive/2007/new-gtld-intro) New gTLD Subsequent Rounds Final Issue Report (http://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-final-issue-04dec15-en.pdf)	

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
6. Visas	The GAC notes that a number of GAC Representatives had difficulties in obtaining visas for this meeting and some were unable to attend in person for this reason, thereby excluding some Representatives from the full range of GAC work. This has also been an issue at previous meetings. There are particular issues for government representatives in obtaining visas where a letter of invitation is from ICANN rather than an agency of the government of the country hosting the meeting.	No	N/A	
	a. The GAC advises the Board that: i. it should investigate options for optimising visa approval	No.	Please note that the meeting strategy working group addressed the same issue in sections IX and XII of its	The GNSO would assure the GAC that its members have similar if not worse problems getting visas, and that this matter has been

GAC Advice - Topic	GAC Advice Details	Does the advice concern an issue that can be considered within the remit[2] of the GNSO (yes/no)	*If yes, is it subject to existing policy recommendations, implementation action or ongoing GNSO policy development work?*	*How has this issue been/is being/will be dealt with by the GNSO*
	procedures, including appropriate liaison in advance with the national government of the country hosting the meeting; and that the GAC is available to assist in this regard.		report (see https://www.icann.org/en/system/files/files/recommendations-25feb14-en.pdf).	raised as a problem in our outreach to under-represented countries.