

GAC Advice – Helsinki Communiqué: Actions and Updates (13 December 2016)
Board Resolution 2016.12.13.05

GAC Advice Item	Advice Text	Board Understanding following dialogue with GAC (July 2016)	GNSO Review of Helsinki Communiqué (11 August 2016)	Board Response
§1.a.I, Future gTLDs Policies & Procedures	<p>The GAC advises the ICANN Board that:</p> <p>i. The starting point for development of policy on further releases of new gTLDs should first take into consideration the results of all relevant reviews of the new gTLD round and determine which aspects and elements need adjustment. In addition, the following should be addressed:</p>	<p>Board understands that it is not the GAC’s intent to dictate a specific timeline for when the next round should occur; the idea is that ICANN should come up with a timeline that makes sense.</p>	<p>Both the PDP on Subsequent Procedures and the CCT-RT are reviewing the need for adjustments. The GNSO Council encourages GAC members to participate in the PDP examining issues related to subsequent rounds of new gTLDs, and/or submit its feedback during this group’s as well as the CCT-RT requests for input and/or public comments. The GNSO Council intends to submit the GAC’s Helsinki Communiqué to the leadership of this PDP, and highlight this particular section for their review.</p>	<p><u>Response:</u> The Board accepts the advice and continues to monitor the work of the community regarding reviews of the current round of the New gTLD Program and the policy development work for subsequent rounds of the New gTLD Program. The Board notes that it does not control the timing of the work of the community.</p>
§1.a.I.a, Future gTLDs Policies & Procedures	<p>a. Requirements with regard to interoperability, security, stability and resiliency should be met.</p>	<p>GAC members indicated that the GAC’s advice did not indicate that the Board should propose requirements but rather, emphasized the importance of interoperability, security, stability and resiliency. The GAC anticipates that there will be a report on what is being done to meet the requirements.</p>	<p>Security, stability and resiliency concerns are always given priority for TLD delegations, or in the development of any new policy proposals.</p>	<p><u>Response:</u> The Board accepts this advice. The Board expects that requirements with regard to interoperability, security, stability and resiliency will be the subject of discussion building up to subsequent rounds of the New gTLD Program. The Board encourages the GAC to continue to participate in these discussions. While the Board will not propose the requirements as these must come from the community, the Board will share with the GAC the report on how these requirements will be met.</p>
§1.a.I.b, Future gTLDs Policies & Procedures	<p>b. An objective and independent analysis of costs and benefits should be conducted beforehand, drawing on experience with and outcomes from the recent round.</p>	<p>Board understand GAC to advise ICANN to conduct an “objective and independent” cost-benefit analysis of a launch of another round, taking into account the results of the current round.</p> <p>Members of the GAC indicated that the scope of reviews being</p>	<p>The comment period on the gTLD Marketplace Health Index (Beta is open.) The CCT-RT is also underway and comprises the analysis of the Nielsen Surveys and the Analysis Group Study, but a truly “independent analysis” would need to be requested by the PDP WG, and approved by the Council.</p>	<p><u>Response:</u> Board accepts the advice, noting that the Board is not in a position to manage the content and timeline of the ongoing community reviews. Board recognizes that the CCT Review Team is concluding its work and understands that the Review Team is looking at the issues noted in the GAC’s advice, and such recommendations from the Review Team could be incorporated into the</p>

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		<p>undertaken by the CCT-Review Team is not clear. In particular, members of the GAC think it is important that the studies on the cost and benefits of new gTLDs not just focus on the impacts to the domain name industry, but also take into account the impacts to the general public. Also, members expressed that it seems that some of the discussions and conclusions from the 2010 Economic Study have not been fully considered by the current reviews.</p>		<p>policy development work on subsequent rounds of the New gTLD Program.</p>
<p>§1.a.I.c, Future gTLDs Policies & Procedures</p>	<p>c. There should be an agreed policy and administrative framework that is supported by all stakeholders.</p>	<p>GAC members indicated that this advice is meant to re-state what is already required by ICANN. It is intended to stress that all stakeholders’ concerns should be taken into account and addressed in future rounds of the New gTLD Program.</p>	<p>The GNSO Council agrees that '[t]here should be an agreed policy and administrative framework that is supported by all stakeholders.'</p> <p>This requires that the Bylaws-mandated Policy Development Processes are respected (participation by a broad range of community members is vital to this process) and not circumvented at any stage by members of the community that did not participate in the process.</p>	<p><u>Response:</u> The Board accepts this advice and will follow the process established in the ICANN Bylaws concerning the policy development process. As provided in Section 12.2 of the Bylaws, “The Board shall notify the Chair of the Governmental Advisory Committee in a timely manner of any proposal raising public policy issues on which it or any of the Supporting Organizations or Advisory Committees seeks public comment, and shall take duly into account any timely response to that notification prior to taking action.”</p>
<p>§1.a.II, Future gTLDs Policies & Procedures</p>	<p>II. All measures available to the Board should be used to ensure that a comprehensive and measured approach to further releases of new gTLDs is taken in a logical, sequential and</p>	<p>It is not the GAC’s intent to dictate a specific timeline for when the next round should occur; the idea is that ICANN should come up with a timeline that makes sense</p>	<p>The application, evaluation and delegation of future rounds of new gTLDs should be sequenced to address necessary dependencies and pre-requisites, but without creating artificial inefficiencies or delays.</p>	<p><u>Response:</u> The Board accepts this advice while noting that the Board is not in position to manage the community timeline. The Board will of course share the GAC’s advice with the community as appropriate. The Board is consulting with the GNSO regarding the work plan and timeline for the New gTLD Subsequent Procedures Policy Development</p>

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	coordinated way rather than through parallel and overlapping efforts and/or timeframes that may not be agreed by all relevant interests.			Process (PDP) Working Group (WG), as the Board agrees it would be helpful to understand whether the GNSO believes that the entirety of the current New gTLD Subsequent Procedures PDP must be completed prior to advancing a new application process for new gTLDs. The GNSO responded to the Board’s enquiry by letter on 16 August and 25 October, including a synthesis of responses gathered from various GNSO Stakeholder Groups and Constituencies, and the New gTLD Subsequent Procedures PDP Working Group.
§2.a.I & II, Privacy Proxy Services	<p>The GAC advises the ICANN Board that:</p> <p>i. the recommendations set forth by the GNSO PDP Working Group on Privacy and Proxy Services Accreditation Issues (PPSAI) raise important public policy issues highlighted by the GAC in its comments on the PPSAI’s Initial Report.</p> <p>ii. the Board should ensure that the dialogue on constructive and effective ways to address GAC concerns is continued.</p>	Board understands and agrees that the PPSAI raises important public policy issues and will continue its dialogue with the GAC.	Members of the GAC and the Public Safety Working Group (PSWG) are invited and encouraged to participate and contribute to the implementation of the recommendations of the PPSAI PDP WG (if and when adopted), including through participation on the mandatory Implementation Review Team (IRT) to be formed to advise ICANN staff on implementation planning.	<u>Response:</u> The Board accepts this advice and will continue to encourage dialogue on constructive ways to address GAC concerns as the policy implementation continues.
§2.a.III & IV, Privacy Proxy Services	III. if the Board resolves to adopt the PPSAI recommendations, it should direct the Implementation Review	This advice is not intended to be considered “new” advice. Instead, it attempts to summarize key messages discussed with the GNSO and Board regarding the	Some concerns of the GAC may be addressed by the IRT, with the caveat that revisiting substantive policy discussions that have been completed are outside the scope of	<u>Response:</u> The Board accepts this advice. The Board notes that members of the Public Safety Working Group have joined the Implementation Review Team, and the Board encourages the Implementation Review Team

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	<p>Team (IRT) to ensure that the GAC concerns are effectively addressed in the implementation phase to the greatest extent possible</p> <p>IV. GAC input and feedback should be sought out as necessary in developing a proposed implementation plan, including through participation of the Public Safety Working Group on the Implementation Review Team</p>	<p>Privacy/Proxy policy development process. Also, the GAC wants to highlight the importance of participation by members of the GAC, and in particular the Public Safety Working Group, in the implementation of the Privacy/Proxy policy recommendations. The GAC wants confirmation or acknowledgment from the Board that participation by the Public Safety Working Group is one key way to ensure that the GAC is fully engaged with the implementation work</p>	<p>Implementation Review Teams. While the Board may provide general direction to an IRT (e.g. to take into account GNSO guidance and GAC advice in devising the implementation plan) it does not have the discretion to direct specific outcomes for the work of any IRT.</p> <p>The GAC and/or PSWG will have additional opportunity, along with the broader Community, to contribute its views and comments on the final PPSAI implementation plan.</p>	<p>to continue to work with the Public Safety Working Group to address the concerns expressed by the GAC regarding accreditation of privacy/proxy service providers.</p>
§2.a.V, Privacy Proxy Services	<p>V. If, in the course of the implementation discussions, policy issues emerge, they should be referred back to the GNSO for future deliberations in consultation with the GAC on potential enhancements to privacy and proxy service accreditation.</p>	<p>If the implementation does not meet or address the GAC’s concerns, the GAC will issue formal advice to the Board. The GAC expects that the Board will either accept the advice, or reject the advice and go through the established processes for doing so.</p>	<p>In addition to existing mechanisms for addressing additional policy issues that may arise during the implementation phase, once an accreditation framework for privacy/proxy services has been adopted and implemented, future policy issues that emerge as a result can be examined, potentially leading to future policy development work in this area.</p>	<p><u>Response:</u> The Board accepts this advice and will use the existing processes in the Bylaws and the Board-GAC Consultation Process to address any additional advice from the GAC regarding accreditation of privacy/proxy service providers. The Board notes that ICANN’s existing Consensus Policy Implementation Framework allows for new policy issues that emerge during implementation to be referred back to the appropriate policy making body, in this case, the GNSO.</p>

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§3.a.i, Two-letter country/territory codes at the second level	<p>The GAC advises the ICANN Board to:</p> <p>i. urge the relevant Registry or the Registrar to engage with the relevant GAC members when a risk [of confusion] is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered.</p>	<p>Members of the GAC indicated that this advice is meant to convey the different viewpoints of governments. The “consensus” is that every country should have a say in this; the GAC is hesitant to go as far as to give advice to say that they want a veto right on the release of the two-character domain names that correspond to country codes because there is not enough support for the position that there is a legal right to these codes. The GAC had not discussed whether they were seeking contractual requirements to implement the advice, but requested that the Board send an email or letter asking the GAC if they had more information or specific advice on this point. Additionally, GAC members asked how the Board would reconcile the GAC advice with the ongoing public comment period about developing measures for registries to implement to avoid confusion with country codes when registry operators release the two-character labels from reservation.</p>	<p>The GNSO notes that on 8 July, ICANN staff has recently published for public comment “Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes”.</p>	<p><u>Response:</u> The Board accepts this advice. In adopting its resolution in Hyderabad regarding two-letter codes at the second level, the Board explicitly accepted the GAC advice contained in its Singapore Communiqué dated 11 February 2015. Specifically, the Board directed ICANN to revise the process for the release of two-letter codes at the second level as follows:</p> <ul style="list-style-type: none"> ▪ To implement improvements to the process to alert relevant governments when requests are initiated. Comments from relevant governments will be fully considered. ▪ For new requests, the comment period will be for 60 days. ▪ For requests with pending or completed comment periods, extend or re-open the comment period so that each request will undergo 60 days of comment period in total.
§4.a.i & ii Use of 3-letter codes in the ISO-3166 list as gTLDs in future rounds	<p>The GAC advises the ICANN Board to:</p> <p>i. encourage the community to continue in depth analyses and discussions on all aspects</p>		<p>The GNSO continues to engage with the issue of the use of 3-letter ISO 3166-1 codes as gTLDs as a Chartering Organization of the Cross-Community Working Group (CWG) on the Use of</p>	<p><u>Response:</u> The Board takes note that there is a Cross-Community Working Group working on the use of 3-letter ISO codes at the top level: “Cross-Community Working Group on Use of Country/Territory Names as TLDs.” The Working Group presented a status report and</p>

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	<p>related to a potential use of 3-letter codes in the ISO-3166 list as gTLDs in future rounds, in particular with regard to whether such a potential use is considered to be in the public interest or not.</p> <p>ii. keep current protections in place for 3-letter codes in the ISO-3166 list in place and not to lift these unless future in-depth discussions involving the GAC and the other ICANN constituencies would lead to a consensus that use of these 3-letter codes as TLDs would be in the public interest.</p>		<p>Country and Territory Names as TLDs. The GNSO will consider this group's scope and work and how best to integrate these into the recently commenced Subsequent Procedures PDP. In light of the significant community interest expressed in relation to this topic in Helsinki, the GNSO Council urges all interested members of the community to participate in the CWG and PDP Working Group.</p>	<p>Interim Paper to the community at ICANN57 in Hyderabad. Based on feedback received, the Working Group will refine the paper and publish it for public comment.</p> <p>For future rounds of the New gTLD Program, the Board acknowledges GAC member participation in the work of the Policy Development Process concerning Subsequent Procedures of the New gTLD Program. The Board notes that the matter of reserved top level domain names is within the scope of the policy development work.</p>
<p>§5, Protection of IGO Names and Acronyms</p>	<p>a. The GAC advises the ICANN Board to:</p> <p>i. pursue its engagement with both the GAC and the GNSO on the issue of IGO protections in an effort to reconcile differences between GNSO and GAC advice on this topic while remaining responsive to concerns laid out in GAC advice issued since the Toronto Communiqué;</p>	<p>There is a strong feeling from the GAC that at this phase of the discussions of the “small group”, the GNSO should also be at the table when discussing the proposals. Also, because there many new Board members and members on the GNSO Council, the GAC urges the parties to engage with the IGOs to get a full briefing on the background of the issue and its complexities</p>	<p>The GNSO refers the Board to the previously adopted (20 November 2013 – see http://gnso.icann.org/en/council/resolutions#20131120-2) recommendations of the PDP WG addressing this topic and our statements on this issue during our engagement session in Helsinki. The GNSO Council lacks any remit to negotiate or alter these adopted recommendations to suit GAC advice.</p>	<p><u>Response:</u> The Board accepts the advice. The Board sent a letter to the GNSO Council regarding the next steps in reconciling GAC advice and GNSO policy recommendations with respect to the protection of IGO acronyms in the domain name system. Included in the letter was the proposal of the “small group” for dealing with the protection of IGO acronyms at the second level. As noted in the letter, the Board believes that the most appropriate approach for the Board in this matter is to help facilitate a procedural way forward for the reconciliation of GAC advice and GNSO policy prior to the Board formally considering the substantive policy</p>

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	<p>Taking into account the number of individuals who have joined both the Board and the GNSO since the GAC first brought this issue to the attention of the ICANN Community,</p> <p>b. The GAC advises the ICANN Board to:</p> <p>i. engage the IGOs in its discussions (both within the Board and with the GNSO) where appropriate, given that the IGOs are best-placed to comment upon the compatibility of any proposals with their unique status as non-commercial, publicly-funded creations of government under international law.</p>			<p>recommendations. Additionally, the Board stated that it hoped to continue discussion on this topic with the GAC and GNSO in Hyderabad. Following these discussions in Hyderabad, the Board proposed a facilitated dialogue between the GAC and the GNSO as a possible path forward.</p>