

TABLE OF CONTENTS – COMMITTEE PAPERS

Agenda Table.....p. 2

Main Agenda

GAC Advice Updates.....p. 3

GAC Advice on .AMAZON (and related IDNs).....p. 4-6

GAC Advice re: Community Views on .HEALTH.....p. 7-9

Report of Public Comments on Review Mechanism for String Confusion
Objection Expert Determinations.....p. 10-14

New gTLD Program Auctions.....p. 15-19

NGPC Meeting Agenda – 29 April 2014 – 2 hours

Topic	Shepherd
1. GAC Advice	Disspain / Hedlund
a) .Amazon	
b) Community applications (.health)	
c) IGO Protections	
d) Singular/Plural Strings	
e) .ram/ .indians	
f) RCRC Names	
g) .spa	
h) .wine/.vin	
i) Written briefing - safeguards	
j) IOC/RC Protections	
k) Cat 2 Safeguards – Exclusive Access	
2. Perceived Inconsistent String Confusion Expert Determinations – Review Mechanism	Stathos
3. New gTLD Auction Rules	Willett
4. New gTLD Program Financial Update	Willett

ICANN NGPC PAPER NO. 2014.04.29.NG1

TITLE: **GAC Advice (Beijing, Durban, Buenos Aires and Singapore): Updates**

PROPOSED ACTION: **For Information**

EXECUTIVE SUMMARY:

The attached Annex 1 provides a status update on the remaining open items of advice issued by the Governmental Advisory Committee (GAC) in Beijing, Durban and Buenos Aires concerning the New gTLD Program. Over the past several months, the NGPC has taken several actions to respond to the advice in the Beijing Communiqué, Durban Communiqué, and Buenos Aires Communiqué, and thus only a handful of open items remain including protections for acronyms of IGOs, Category 2 safeguards for generic strings proposing exclusive registry access, and the GAC's consensus advice concerning .AMAZON (and related IDNs).

Additionally, Annex 1 includes new items of advice issued by the GAC in its Singapore Communiqué (dated 27 March 2014) and the NGPC's proposed response for each item. Consistent with the Applicant Guidebook, ICANN has notified relevant applicants of strings named in the Singapore Communiqué of the GAC advice, and has provided at least 21 days for those applicants to submit responses to the NGPC for consideration. To be considered by the NGPC, applicant responses are required to be submitted no later than 2 May 2014. ICANN will publish applicant responses and provide them to the NGPC for consideration as the NGPC moves forward with addressing the GAC advice. This paper is provided for informational purposes, and the NGPC may consider taking action at subsequent meetings to address the remaining GAC advice after receipt of the applicant responses.

Signature Block:

Submitted by: Jamie Hedlund

Position: Advisor to the President

Date Noted: 22 April 2014

Email: jamie.hedlund@icann.org

ICANN NGPC PAPER NO. 2014.04.29.NG1a

TITLE: GAC Advice on .AMAZON (and related IDNs)

PROPOSED ACTION: For Discussion

EXECUTIVE SUMMARY:

In its Durban Communiqué, the GAC advised the ICANN Board that it is the consensus of the GAC that the applications for .AMAZON (application number 1-1315-58086) and related IDNs in Japanese (application number 1-1318-83995) and Chinese (application number 1-1318-5591) should not proceed. The New gTLD Applicant Guidebook (AGB) provides that if “GAC advises ICANN that it is the consensus of the GAC that a particular application should not proceed. This will create a strong presumption for the ICANN Board that the application should not be approved.” (AGB § 3.1) As provided in AGB § 3.1, Amazon EU S.à r.l. (“Amazon”), the applicant of .AMAZON (and related IDNs) was provided an opportunity to submit a response to the ICANN Board to respond to GAC advice. In its response to the Board, Amazon asserted that the GAC advice should be rejected because: (1) it is inconsistent with international law; (2) the acceptance of GAC advice would be non-transparent and discriminatory, which conflicts with ICANN’s governing documents; and (3) the GAC Advice contravenes policy recommendations implemented within the Applicant Guidebook and achieved through international consensus over many years.

The NGPC previously agreed to further study and analyze the issues raised by the applicant and the GAC advice, and in a recent iteration of the GAC-NGPC Scorecard adopted by the NGPC on 5 February 2014 noted that “ICANN has commissioned an independent, third-party expert to provide additional analysis on the specific issues of application of law at issue, which may focus on legal norms or treaty conventions relied on by Amazon or governments.” The analysis, which is included in the Reference Materials to this paper, was provided to the GAC as well as Amazon on 7 April 2014. ICANN provided the analysis to keep the parties informed and noted that it welcomed any additional information that the parties believed to be relevant to the NGPC in making its final decision on the GAC’s advice. The analysis explores relevant international and local law on geographical indications, related international treaties, and principles of intellectual property law to address the specific issues of application of law at issue.

The analysis concludes the following:

As regards the application for assignment of the new gTLD ‘.amazon’ filed by the Amazon company:

i) there is no rule of international, or even regional or national, law applicable in the field of geographical indications which obliges ICANN to reject the application;

ii) there is no rule of international, or even regional or national, law applicable in the field of intellectual property and in particular of trade marks or in the field of fundamental rights, which obliges ICANN to accept this application.

In response to the 7 April 2014 communication to the GAC and Amazon, ICANN received related correspondence, including the following:

- Letter dated 14 April 2014 from Mr. Benedicto Fonseca Filho (Director, Department of Scientific and Technological Themes, Ministry of External Relations, Federative Republic of Brazil) and Mr. Virgilio Fernandes Almeida (National Secretary for Information Technology Policies, Ministry of Science, Technology and Innovation, Federative Republic of Brazil).
- Letter dated 14 April 2014 from Mr. Scott Hayden (Vice President, Intellectual Property – Amazon)

At this time, the NGPC is being asked to consider the GAC’s advice on AMAZON (and related IDNs), including the additional information, analysis and correspondence submitted on this matter, and to discuss options for responding to the GAC’s advice, which may include the following options:

1. Accepting the GAC advice concerning .AMAZON (and related IDNs). By accepting the GAC advice, the applications for .AMAZON (and related IDNs) would not proceed further in the New gTLD Program. As discussed above, if the GAC advises ICANN that it is the consensus of the GAC that a particular application should not

proceed. This will create a strong presumption for the ICANN Board that the application should not be approved.” (AGB § 3.1)

2. Accepting the GAC advice concerning .AMAZON (and related IDNs) while recognizing that Amazon and the concerned governments may wish to consider continuing further discussions to address noted issues or concerns about delegating .AMAZON (and related IDNs) to Amazon. By selecting this option, the applications for .AMAZON (and related IDNs) would not progress further at this time, while acknowledging the opportunity for Amazon and the governments to resolve the noted concerns.
3. Rejecting the GAC advice concerning .AMAZON (and related IDNs). As required by the ICANN Bylaws, in the event that the ICANN Board determines to take an action that is not consistent with the GAC advice, it must inform the GAC and state the reasons why it decided not to follow that advice. The GAC and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution. The ICANN Board-GAC Recommendation Implementation Working Group (BGRI-WG) has developed a procedure for any consultations that might be needed if the Board determines to take an action that is not consistent with GAC advice. The procedure was approved by the BGRI-WG in Beijing and would be used for any consultation on this GAC advice. The procedure says that the consultation process should conclude within six months, but that the GAC and the Board can agree to a different timetable. The consultation process is included in the Reference Materials to this paper.

The Reference Materials to this paper include a timeline of key events and documents related to this matter.

Signature Block:

Submitted by: Jamie Hedlund

Position: Advisor to the President

Date Noted: 23 April 2014

Email: jamie.hedlund@icann.org

ICANN NGPC PAPER NO. 2014.04.29.NG1b

TITLE: GAC Advice regarding Community Views -
.HEALTH and health-related TLDs

PROPOSED ACTION: For Discussion

EXECUTIVE SUMMARY:

Pages 7/15 - 9/15 Removed. Agenda Item Not Considered.

ICANN NGPC PAPER NO. 2014.04.29.NG2a

TITLE: **Report of Public Comments on Review Mechanism
for String Confusion Objection Expert
Determinations**

PROPOSED ACTION: **For Discussion**

EXECUTIVE SUMMARY:

Pages 10/19 - 14/19 Removed. Agenda Item Not Considered.

ICANN New gTLD Program Committee PAPER NO. 2014.04.29.NG3a

TITLE: Briefing on New gTLD Program Auctions

PROPOSED ACTION: For Information

EXECUTIVE SUMMARY:

Pages 15/19 - 19/19 Removed. Agenda Item Not Considered.