Subsequent Procedures Implementation Review Team

Meeting #41

Public Comment Updates

14 May 2024, 13:00-14:00 UTC

ICANN

Agenda

1. Welcome & SOI Update

2. IRT Information & Status

3. **Public Comment Updates**

   a. Topic 2 | Predictability Framework

   b. Topic 10 | Applicant Freedom of Expression

   c. Topic 21 | Reserved and Blocked Names

   d. Work Track 5 | Geographic Names

4. Upcoming IRT Meetings

5. AOB

IRT Information & Status

Agenda Item #2

IRT Stats

Project Information

05/16/23
1st IRT meeting

05/31/25
Expected AGB completion

363
Days since 1st IRT meeting

383
Days to expected AGB completion

Project Health

IRT Information

96
Members

43
Full IRT meetings held

31%
% Full IRT attendance

3
Sub-Tracks

15
Sub-Track meetings held

Region

16 · 29 · 21 · 7 · 23

- Africa
- Asia/Australia/Pacific
- Europe
- Latin America/Caribbean
- North America

Affiliation

8 · 7 · 2 · 11 · 3 · 3 · 5 · 2 · 6 · 7 · 20 · 22

- At-Large
- ALAC
- ccNSO
- GAC
- RSSAC
- GNSO | BC
- GNSO | IPC
- GNSO | ISPCP
- GNSO | NCSG
- GNSO | RrSG
- GNSO | RySG
- Non-affiliated
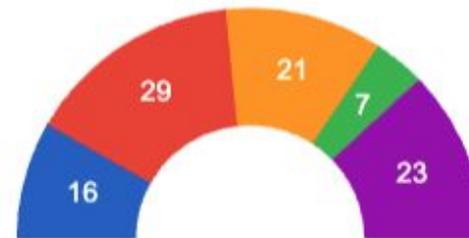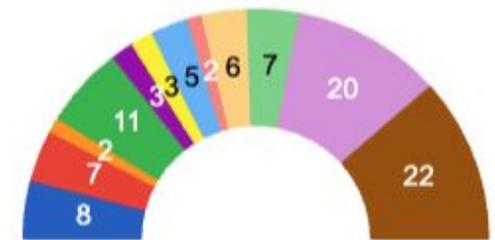
Outputs & Topics Status

Board Decision on Outputs

- 104
- 22
- 165
- 10

Adopted • Adopted with Clarifying Statement • Acknowledged • Not Adopted

Topics Status

- 18
- 4
- 5
- 8
- 1
- 5

Org working on draft language • IRT review • Draft ready for PC • Final review • Draft finalized • N/A
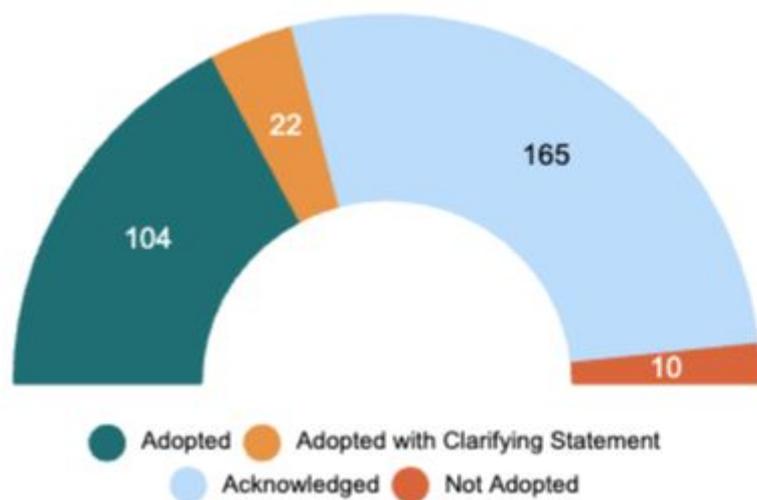
AGB Drafting Completion by Topic

Topic	%
02. Predictability	100%
08. Conflicts of Interest	100%
10. Applicant Freedom of Expression	100%
11. Universal Acceptance	100%
21. Reserved Names	100%
21a. Geographic Names	100%
30. GAC Consensus Advice and GAC Early Warning	100%
28. Role of Application Comment	100%
23. Closed Generics	100%
20. Application Change Requests	100%
33. Dispute Resolution Procedures After Delegation	100%
RZ-LGR	99%
24. String Similarity Evaluations	97%
03. Applications Assessed in Rounds	96%
18. Terms & Conditions (general, ASP, TAMS) & RSP and RST Terms of Use	83%
25. IDNs	72%
19. Application Queuing	58%

Topic	%
Outreach & Engagement Plan	52%
31. Objections	50%
15. Application Fees	36%
05. Applications Submission Limits	34%
16. Applications Submission Period	34%
04. Different TLD Types	30%
22. Registrant Protections	29%
36. Base Registry Agreement	29%
32. Limited Challenge/Appeal Mechanism	24%
27. Applicant Reviews: Technical/Operational, Financial and Registry Services	23%
07. Metrics and Monitoring	23%
35. Auctions: Mechanisms of Last Resort / Private Resolution of Contention Sets	21%
09. Registry Voluntary Commitments / Public Interest Commitments	19%
34. Community Applications	16%
29. Name Collisions	0%
DNS stability	0%

50% usually indicates that the first draft was shared with IRT.

Public Comment Updates

Agenda Item #3

Topic 2 | Predictability Framework

Agenda Item #3a

Topic 2 | Predictability Framework

https://docs.google.com/document/d/18Qs19Cj3Q5DK8pXfqw37aDa7a3RtI9wTNU0n7SaMW5Y/edit?usp=sharing

Input Received	Update	Rationale
RySG: The AGB should define what constitutes "material" impact on applicants, or otherwise provide more transparency into how the materiality of a proposed change will be determined. Much of the SPIRT framework relies on this determination, but it is not clear from the current draft how changes will be assessed, or by whom.	No	The current draft does not include any language that defines what is considered a material change and the language will be updated once ICANN has the opportunity to discuss with the IRT the definition of material change during the Terms and Conditions topic. This sequence has already been discussed with and agreed by the IRT.
RySG: Since the GNSO Council will oversee the SPIRT, the IRT should consider working with the Council to develop guidelines regarding conflicts of interests for Councillors when it comes to such oversight duties.	No	It is important to note that the development of the SPIRT guidelines falls outside the scope of this IRT. As the GNSO Council is responsible for overseeing the SPIRT, ICANN org recommends that the RySG collaborates with the SPIRT chartering team to develop guidelines regarding conflict of interests for Councilors.

Topic 2 | Predictability Framework

Input Received	Update	Rationale
ALAC: Clarity related to Policy Changes Section 3 of the Predictability Framework, bullet three includes the text "If a policy change is necessary the Board, ICANN org, GNSO Council and the SPIRT will collaborate to identify an appropriate solution to secure the continuation of the program as well as an appropriate process to implement it." The Change Execution flowchart includes a box at the lower right saying "In collaboration with the SPIRT, ICANN Org, GNSO Council and ICANN Board develop a solution in variance of or an exception to the policy for the existing round." Despite these statements, there is a pervasive belief among some ICANN participants that the SPIRT will not engage in any discussions about policy but will only advise on methodology for how policy issues should be addressed. Additional clarity would be helpful. As an example: "For avoidance of doubt, should policy variances or exceptions be required for the existing round, SPIRT will be a full participant in arriving at the recommended changes."	Yes	ICANN org has made updates to the text based on the suggestions in this comment.

Topic 2 | Predictability Framework

Input Received	Update	Rationale
ALAC: Non-Policy Change Resolution In the case of a non-minor operational change, the Change Execution Flowchart includes a box with the text "The SPIRT and ICANN org to agree on a solution*", followed by text which effectively says that if they do not agree within 30 days, then ICANN org may develop a "temporary solution" while they continue to collaborate to find an agreed permanent solution. Out of an abundance of caution, we suggest that additional text be included to indicate that should the inability of the SPIRT and ICANN org to agree on a permanent solution continue for another 30 days after the implementation of the "temporary solution", then ICANN org's independent action should continue but the impasse towards a permanent solution must be escalated to the GNSO Council. There is also no explanation for the asterisk.	Yes	ICANN org has made updates to the flowchart based on the suggestions in this comment.

Topic 2 | Predictability Framework

Input Received	Update	Rationale
ALAC: The arrowheads on the first flowchart are nearly invisible. They need to be enlarged to enhance readability.	Yes	ICANN org has updated the arrows in flowchart based on the suggestion in this comment.
IPC: The IPC requests that the AGB draft language be revised to make it clear what the role of the SPIRT is in relationship to formulating solutions to problems, namely, "The SPIRT can only formulate solutions in conjunction with the GNSO Council." It is not intended to be a decision-maker on its own. The draft language states that the SPIRT is expected to develop a "permanent solution" in some instances. In fact, the SPIRT is intended to operate as a "sorting mechanism" to assist in determining where an issue should be resolved and is, in all cases, under the supervision of the GNSO Council.	Yes	ICANN org has made updates to the text based on the suggestions in this comment.

Topic 10 | Applicant Freedom of Expression

Agenda Item #3b

Topic 10 | Applicant Freedom of Expression

https://docs.google.com/document/d/1jHy_jHjfLsgZqEng8FtJZBg9TRwGUaB4GB1ZaUSY02M/edit?usp=sharing

Input Received	Update	Rationale
Kong Diep: Because of some geolocation, there will be a possible impact	No	ICANN org notes this comment, which does not recommend specific additions to the draft language. As such, ICANN org has not made any updates based on this comment.
RySG: This language appears to be consistent with the relevant recommendation, but it is difficult to assess without seeing the content that will be linked in this section of the AGB (where the draft includes placeholders). The Affirmation 10.1 includes a number of useful references to legal rights that would be helpful to include in the final language of this section of the AGB.	Yes	ICANN org has made updates to the text based on suggestions in this comment. The Language has been updated to include an excerpt from Affirmation 10.1, which references examples of relevant legal rights: *Examples of these legal rights that are internationally recognized include, but are not limited to, rights defined in the Paris Convention for the Protection of Industrial Property, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.* The hyperlinked sections in the draft text will be accessible once the relevant content has been finalized and available for review in a subsequent public comment period.

Topic 10 | Applicant Freedom of Expression

Input Received	Update	Rationale
ALAC: Please include a reference to "prohibitions" as another element that could result in an unsuccessful string application. By "prohibitions" we mean restrictions applicable to Reserved and Blocked Names (including Geographic Names) and other such restrictions which may not be viewed as "requirements". In particular, we suggest the following amendment: "Applications are subject to an evaluation and objection process [hyperlink] as described in the AGB and will be unsuccessful should an applied-for string be found to violate applicable laws or other rights and requirements or prohibitions specified in the AGB."	Yes	ICANN org has made updates to the text based on suggestions in this comment. The language has been updated to include reference to "prohibitions" as stated in the proposed ALAC amendment. ICANN org wishes to clarify that the New gTLD Program is structured as an objection based scheme. Applicants to the Program are able to submit requests for any gTLD string that meets technical requirements and the eligibility criteria noted in the AGB. ICANN will consider any objections to an applied-for string according to the process detailed in the AGB.

Topic 10 | Applicant Freedom of Expression

Input Received	Update	Rationale
Timileyin Adisa: As part of ICANN's responsibilities, it is crucial that the organization ensures that its policies and practices respect the freedom of expression rights of applicants. This includes allowing individuals and organizations to apply for domain names without unjustified censorship or restrictions that unduly limit their ability to express themselves online. By affirming its commitment to respecting freedom of expression rights and giving no chance for bias in its codes and conduct, ICANN demonstrates its dedication to maintaining an open and inclusive internet environment. This approach not only supports the principles of free speech but also contributes to the diversity of voices and perspectives that enrich the online community. It is important that ICANN upholds the principles of freedom of expression. This fundamental human right is essential for fostering open communication and facilitating the free flow of information online.	No	The comment does not suggest any changes to the draft language and is approving of its content and sentiment. As such, ICANN org has not made any updates to the text based on this comment.

Topic 21 | Reserved and Blocked Names

Agenda Item #3c

Topic 21 | Reserved and Blocked Names

https://docs.google.com/document/d/1QKl0THzK_o8V0dvvAcX4iy3axVl8TraO8GysJEEx93k/edit?usp=sharing

Input Received	Update	Rationale
RySG: This language appears to be consistent with the relevant recommendation, but the RySG requests that the IRT make a clarifying edit for the avoidance of doubt. Specifically, above the table in Section 1, "Blocked and Reserved Names," we suggest that the language reflect that the names are not available to be applied for as gTLD/top-level strings in the next application round or future application procedures, and not gTLDs that are already delegated into the Root Zone.	Yes	ICANN org has made updates to the text based on suggestions in this comment. The language states that "gTLD strings on the Blocked Names list are not eligible under existing GNSO policy to be applied for in any future application round. This exclusion does not apply to those gTLDs that are already delegated into the Root Zone."

Work Track 5 | Geographic Names

Agenda Item #3d

Work Track 5 | Geographic Names

https://docs.google.com/document/d/1IfVNw6KOxKEmvn9Kibq7WVdP8inyLk71ZLoTdHt1W5g/edit?usp=sharing

Input Received	Update	Rationale
dotBERLIN GmbH & Co. KG: We would like to point out that no protocols or other relevant documents on decisions from the 2012 Geographic Name Panel are publicly available. Such documents would illustrate to new gTLD applicants how the Geographic Name Panel made decisions on the various strings that were identical to geographic names. In this context, it is hard to assess whether the proposed language is consistent with the relevant recommendations and further information and clarification form ICANN org would be appreciated to make a final assessment. The absence of essential information leaves a bitter aftertaste when it comes to the transparency of the classification of geographic top-level domains.	No	Panel procedures and guidelines, along with other Next Round materials, will be published prior to the opening of the Next Round. For previous documentation from the 2012 Round, please see the following link: https://newgtlds.icann.org/sites/default/files/geo-names-process-07jun13-en.pdf.

Work Track 5 | Geographic Names

Input Received	Update	Rationale
RySG: The RySG notes that it is difficult to fully assess this section of the draft AGB, and whether the proposed language is consistent with the relevant recommendations, given that some portions will be revisited when the IRT deals with subsequent topics (e.g., the language on the Review Procedure for Geographic Names in section 1.4). Additionally, the rules and procedures outlined in this section necessarily go beyond what is written in the recommendations. On that language, the RySG offers the following comments for the IRT's consideration: 1. Section 1.3 states that ICANN will comply with a legally binding court order, but does not provide any detail as to what will happen to the gTLD application in such an event. It would be useful to provide more detail around such a scenario, including if and how the applicant would be renumerated. 2. Section 1.4 appears to introduce the concept that ICANN may announce an end to the application round. This would seem to have significant implications to other sections of the AGB, so we urge the IRT to make the language on this subject in other relevant sections very clear.	No	ICANN org acknowledges that it may be difficult in some instances to review a particular topic without the context of the full AGB. As previously stated, ICANN org is targeting placing all topics for a final public comment with the full AGB by May 2025.

Work Track 5 | Geographic Names

Input Received	Update	Rationale
Dotzon GmbH: We would like to point out that there is no documentation available from the 2012 Geographic Name Panel. Such documentation would illustrate how the Geographic Name Panel made decisions on the various strings that were identical to geographic names. In this context, it is hard to assess whether the proposed language in the AGB is consistent with the relevant recommendations. Therefore, further information and clarification form ICANN org would be appreciated to make a final assessment.	No	ICANN org acknowledges that it may be difficult in some instances to review a particular topic without the context of the full AGB. As previously stated, ICANN org is targeting placing all topics for a final public comment with the full AGB by May 2025. For previous documentation from the 2012 Round, please see the following link: https://newgtlds.icann.org/sites/default/files/geo-names-process-07jun13-en.pdf.

Work Track 5 | Geographic Names

Input Received	Update	Rationale
ALAC: Please refer to Geographic Names (Work Track 5 Final Report) on page 4, under item 4 to do with "UNESCO region" and "Geographic Regions" and its Annex at page 9; as well as page 10 of the Work Track 5 Final Report to the New gTLD SubPro PDP WG. Our comments are: 1) The Work Track 5 Final Report recommendation on the above does not include the words "in the six UN languages" as was included in the draft AGB text at the end of the first paragraph of item 4. While the draft AGB text does go on to mention in the second paragraph "will be limited to the six UN languages specified on that list" which is technically correct per https://unstats.un.org/unsd/methodology/m49/ (footnote 5), we believe that the six UN languages are set by the UN, and not ICANN. Hence, we propose that the words "in the six UN languages" be deleted from the said first paragraph; AND that the text "will be limited to the six UN languages specified on that list" in said second paragraph be changed to "will be limited to the languages specified on that list"; 2) If ICANN org is going to specifically rely on https://unstats.un.org/unsd/methodology/m49/ as at Sep 2023, then we suggest a capture of that webpage be published by ICANN org for applicants' benefit. Otherwise, the reference to "Sep 2023" may become meaningless. This goes back to earlier input by our representatives on the IRT regarding the need to ensure that any external information referred to by ICANN in the AGB has to consider the currency, and hence validity, of that information; 3) Please include a hyperlink (or bookmark thereto) to link "DNS Label Conversion Rules" in the said second paragraph to the source of that information; and 4) Most importantly, the first line of the third paragraph of the draft AGB text, should read as "In the case of an application for a string appearing on either of the lists in this item 4, documentation of.." instead of "In the case of an application for a string appearing on the list above, documentation of…". This is to correctly reflect the narrow amendment intended in the Work Track 5's recommendation 3 at page 10 of the Work Track 5 Final Report to the New gTLD SubPro PDP WG. Please refer to Geographic Names (Work Track 5 Final Report) on page 5; wherein our comments are: 5) In paragraph 2, please be consistent when mentioning "government support" to also include "or non-objection"; and 6) Paragraph 3 first line should perhaps read as, "For each application, the Geographic Names Panel will determine which governments and/or public authorities are relevant ….." Please refer to Geographic Names (Work Track 5 Final Report) on pages 6 and 7 wherein our comment for references to "government" to consistently include "(and/or) public authority" are relevant to the: 7) The fourth and last paragraphs on page 6; and 8) The fourth and last paragraphs on page 7.	Yes	ICANN org has made updates to the text based on the suggestions in this comment. Additionally, ICANN org acknowledges the importance of maintaining a static and current list from UN Stats and is exploring the most effective means to achieve this before republishing this section for a final public comment with the full AGB.

Work Track 5 | Geographic Names

Input Received	Update	Rationale
IPC: The draft AGB section states: "If there is more than one application for a string representing a certain Geographic Name as described in this section, and the applications have requisite government approvals, the applications will be suspended pending resolution by the applicants. If the applicants have not reached a resolution by either the date of the end of the application round (as announced by ICANN), or the date on which ICANN opens a subsequent application round, whichever comes first, the applications will be rejected and applicable refunds will be available to applicants according to the conditions described in section 1.5." The IPC requests clarification on how applicants can resolve such conflicts between themselves in the event that ICANN bans private auctions.	No	ICANN org acknowledges that it may be difficult in some instances to review a particular topic without the context of the full AGB. As previously stated, ICANN org is targeting placing all topics for a final public comment with the full AGB by May 2025.

Upcoming IRT Meetings

Agenda Item #4

Provisional Meeting Schedule

#	Date	Time UTC	Sub-Track	Topic	Wiki
42	16-May-2024	19:00-20:00		13. Communications	https://community.icann.org/x/kIBREw
17	21-May-2024	18:30-20:00	ASP		https://community.icann.org/x/mIBAEw
43	21-May-2024	20:00-21:00		6. RSP	https://community.icann.org/x/nYBREw
18	22-May-2024	14:00-15:30	ASP		https://community.icann.org/x/pIBAEw
44	23-May-2024	14:00-15:00		39. RST	https://community.icann.org/x/poBREw
19	23-May-2024	15:00-16:30	ASP		https://community.icann.org/x/r4BAEw
45	28-May-2024	13:00-14:00		6. RSP	https://community.icann.org/x/roBREw
46	4-Jun-2024	19:00-20:00		18. Terms & Conditions	https://community.icann.org/x/t4BREw

Dates, times, and agendas will be confirmed closer to the meetings.

AOB

Agenda Item #5

Prep Week Session

The Prep Week session

New gTLD Program:

Next Round – Implementation Status Update

will be held on

28 May 2024 at **18:00-19:30 UTC**

https://sched.co/1daZG