

ICANN BOARD PAPER NO. 2021.09.12.1a

TITLE: **Operational Design Phase for New Generic Top Level Domain
(gTLD) Subsequent Procedures Policy Development Process
Final Report**

PROPOSED ACTION: **For Board Consideration and Approval**

EXECUTIVE SUMMARY:

The Board is in receipt of community-developed consensus policy recommendations and other outputs to enable the introduction of new generic top level domains. The Board is being asked to consider initiating an Operational Design Phase to provide the Board with additional information as part of its deliberations on the outputs of the policy development process.

On 21 January 2016, the GNSO Council chartered a Policy Development Process (PDP) for the New gTLD Subsequent Procedures. On 18 February 2021, the Generic Names Supporting Organization (GNSO) Council voted to approve, by a GNSO Supermajority, the Affirmations, Recommendations, and Implementation Guidance (collectively, referred to as "Outputs") that were determined to have received either 'Full Consensus or Consensus'¹ designations as documented in the [New Generic Top Level Domain \(gTLD\) Subsequent Procedures Policy Development Process Final Report](#) (Final Report). On 24 March 2021, the GNSO Council transmitted its [Recommendations Report](#) to the ICANN Board and the Board is now considering the Outputs contained in the Final Report.²

The Final Report Outputs concern complex operational requirements, and the Board will benefit from further due diligence to evaluate the impact of implementing the Final Report Outputs. The

¹[ANNEX 1 GNSO Working Group Guidelines](#) "Full consensus - when no one in the group speaks against the recommendation in its last readings This is also sometimes referred to as Unanimous Consensus "Consensus - a position where only a small minority disagrees but most agree "

² The [GNSO Council's resolution](#) for the Policy Development Process on New gTLD Subsequent Procedures Final Report also included a request that the ICANN Board initiate an ODP on the Final Report Outputs as soon as possible

Board is considering whether to undertake that further due diligence by initiating an Operational Design Phase (ODP) to inform its deliberations about whether the Final Report Outputs are in the best interests of the ICANN community or ICANN ([ICANN Bylaws, Annex A, Section 9 \(a\)](#)).

“Any PDP Recommendations approved by a GNSO Supermajority Vote shall be adopted by the Board unless, by a vote of more than two-thirds (2/3) of the Board, the Board determines that such policy is not in the best interests of the ICANN community or ICANN.”

In the event that the Board determines that the policy recommended by a GNSO Supermajority Vote or less than a GNSO Supermajority vote is not in the best interests of the ICANN community or ICANN, the ICANN Board will follow the process, as outlined in the [ICANN Bylaws, Annex A, Section 9](#), which involves a series of communications and discussions between the ICANN Board and the GNSO Council.

The proposed ODP will produce an Operational Design Assessment (ODA) that will be delivered to the Board for its consideration alongside the Final Report, public comment on the Final Report, and any other relevant materials. The ODA is expected to provide the Board with information to facilitate the Board's determination of whether the Outputs are in the best interests of the ICANN community or ICANN, as noted above. This includes analysis of the operational impact of the Final Report Outputs in terms of risk, anticipated costs, resource requirements, potential timelines, and other matters related to implementation of the Final Report Outputs, as described in the [New gTLD Subsequent Procedures Operational Design Phase Scoping Document](#) referenced below.

Commented [1]: to add link when avail

As noted above, the GNSO Council voted and approved the Final Report Outputs which achieved Consensus or Full Consensus by the PDP Working Group. The GNSO Council's Final Report also includes Outputs that did not achieve Consensus or Full Consensus. Given the overall complexity, large number of Outputs, the interdependency between them, and the GNSO Council's acknowledgement of such in its [resolution](#), the ICANN Board is requesting that the

scope of the ODP include all of the Final Report Outputs in order to understand any impacts they may have to implementation. Initiating and conducting an ODP for the Final Report Outputs is a significant undertaking and will require a considerable amount of ICANN org resources, such as additional personnel, third party vendors and contractors, etc. The required resources are not included in ICANN org's annual budget, but instead are being requested as an allocation from the new gTLD program fund.

ICANN PRESIDENT AND CEO AND SUBSEQUENT PROCEDURES BOARD CAUCUS ON NEW GTLD SUBSEQUENT PROCEDURES POLICY DEVELOPMENT PROCESS:

The ICANN President and CEO recommends that the ICANN Board take action to initiate and conduct an Operational Design Phase of the Subsequent Procedures Final Report Outputs to facilitate the Board's review and consideration of the Final Report. The Board Caucus on New gTLD Subsequent Procedures has been consulted and recommends that the ICANN Board take action to initiate and conduct an Operational Design Phase for the Subsequent Procedures Final Report Outputs.

ICANN PRESIDENT AND CEO AND BOARD FINANCE COMMITTEE (BFC) RECOMMENDATION:

The ICANN President and CEO recommends that the Board authorize a range of US\$7 \$9M n spending to fund the resources needed for ICANN org to initiate and conduct an ODP for the Subsequent Procedures Final Report Outputs, and that the source of the funds is the New gTLD Program fund. The recommended spending range of US\$7 \$9M will fund the initiation of the Subsequent Procedures ODP, the execution of the ODP including community engagement, formation and delivery of an ODA to the Board, and any additional related work that may be required³ to support the ICANN Board's consideration of the New Generic Top Level Domain (gTLD) Subsequent Procedures Policy Development Process Final Report until such a time when the ICANN Board has made its determination regarding said report. It is expected that, should

³ Appendix A to this Board paper includes additional detail about the estimated range of spending to fund the ODP

the Subsequent Procedures Final Report Outputs be approved by the Board, the work performed during the ODP phase and its output will contribute to the preparation work for a next round, and therefore reduce by as much the preparation work of the next round and its related costs. The Board Finance Committee has been consulted and also recommends that the Board authorize a range of US\$7-\$9M in spending to fund the resources needed for ICANN org to initiate and conduct an ODP for the Subsequent Procedures Final Report Outputs, and that the source of the funds is the New gTLD Program fund.

PROPOSED RESOLUTION:

Whereas, on 18 February, 2021 the GNSO Council approved the Affirmations, Recommendations, and Implementation Guidance (collectively, referred to as "Outputs") that were determined to have received either Full Consensus or Consensus designations as documented in its New gTLD Subsequent Procedures Policy Development Process

Whereas, the Board has begun its deliberations to consider whether the Outputs in the New gTLD Subsequent Procedures Final Report are in the best interests of the ICANN community or ICANN.

Whereas, the Board wishes to utilize the Operational Design Phase (ODP) process to assess all of the Final Report Outputs and to gather more information as part of its deliberations.

Whereas, the ICANN President and CEO and the Board Caucus on the New gTLD Subsequent Procedures Policy Development Process have recommended that the Board authorize the President and CEO, or his designee(s), to initiate and conduct an ODP on all of the Final Report Outputs from the New gTLD Subsequent Procedures Policy Development Process.

Whereas, the Board recognizes that the ODP is a significant undertaking and will require a considerable amount of ICANN org resources to execute, thereby creating the need for a range of US\$7-\$9M in spending to fund the necessary resources.

Whereas, the ICANN President and CEO and the Board Finance Committee have recommended that the Board authorize the President and CEO, or his designee(s), to spend up to US\$9M to fund the resources needed for ICANN org to initiate and conduct the ODP and any additional related work that may be required to support the ICANN Board's consideration of the New Generic Top Level Domain (gTLD) Subsequent Procedures Policy Development Process Final Report.

Resolved (2021.09.12 xx), the Board directs the President and CEO, or his designee(s), to conduct the Operational Design Phase (ODP) by addressing the questions outlined in the [New gTLD Subsequent Procedures Operational Design Phase Scoping Document](#). The Board further directs the President and CEO, or his designees(s), to take the steps needed to organize the resources required to begin work on the ODP, and to advise the Board when the work of the ODP is initiated within the organization. The Board requests regular updates on the progress of the work and delivery of the Operational Design Assessment (ODA), the expected output of the ODP, within ten months from the date of initiation, provided that there are no unforeseen matters that could affect the timeline, of which any such matters are to be communicated to the Board immediately upon identification.

Commented [2]: Link to Scoping Document

Resolution Text Superseded

PROPOSED RATIONALE:

Why is the Board addressing the issue?

The Board is taking action today to take a key step as part of the Board's requirement to consider the consensus policy recommendations and other outputs approved by the GNSO Council to

enable moving forward with subsequent rounds of new gTLDs. Due to the required resource investment and complexity of the Affirmations, Recommendations, and Implementation Guidance (collectively, referred to as "Outputs") that were determined to have received either Full Consensus or Consensus designations as documented in the [New Generic Top Level Domain \(gTLD\) Subsequent Procedures Policy Development Process Final Report](#) ("Final Report"), initiating an ODP for the Final Report Outputs is essential to inform the Board's deliberations, including whether the recommendations are in the best interests of the ICANN community or ICANN, as noted above. The ODP will assess the potential risks, anticipated costs, resource requirements, timelines, and other matters related to implementation of the Final Report, as detailed in the New gTLD Subsequent Procedures Operational Design Phase Scoping Document. The ODP will provide additional transparency into the information provided to and considered by the ICANN Board in support of its obligation to act on the Final Report in accordance with the ICANN Bylaws.

What is the proposal being considered?

The Board is taking action to initiate the ODP and directs ICANN org to prepare an assessment of the operational requirements and impact of the Final Report Outputs according to the scope specified by the Board for the purpose of facilitating the Board's determination of the recommendations.

Which stakeholders or others were consulted?

The Board followed closely relevant stakeholder discussions related to a possible launch of an ODP for the Subsequent Procedures Final Report Outputs.⁴ During ICANN71, The Board also had constructive exchanges on this topic in its meetings with the [GAC](#). The Board also notes that during ICANN71 ICANN org provided [the GAC](#) with an update on the status of a potential ODP

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[https://71.schedule.icann.org/meetings/efyH4vdrQbmm2QHgK#/?limit=10&sortByFields\[0\]=isPinned&sortByFields\[1\]=lastActivityAt&sortByOrders\[0\]=-1&sortByOrders\[1\]=-1&uid=sRMo5hmLvvdHjHkao](https://71.schedule.icann.org/meetings/efyH4vdrQbmm2QHgK#/?limit=10&sortByFields[0]=isPinned&sortByFields[1]=lastActivityAt&sortByOrders[0]=-1&sortByOrders[1]=-1&uid=sRMo5hmLvvdHjHkao)
[https://71.schedule.icann.org/meetings/e4rKih5BHgTkz3X9Z#/?limit=10&sortByFields\[0\]=isPinned&sortByFields\[1\]=lastActivityAt&sortByOrders\[0\]=-1&sortByOrders\[1\]=-1&uid=sRMo5hmLvvdHjHkao](https://71.schedule.icann.org/meetings/e4rKih5BHgTkz3X9Z#/?limit=10&sortByFields[0]=isPinned&sortByFields[1]=lastActivityAt&sortByOrders[0]=-1&sortByOrders[1]=-1&uid=sRMo5hmLvvdHjHkao)
[https://71.schedule.icann.org/meetings/JHh7cZinAZMYutQ33#/?limit=10&sortByFields\[0\]=isPinned&sortByFields\[1\]=lastActivityAt&sortByOrders\[0\]=-1&sortByOrders\[1\]=-1&uid=sRMo5hmLvvdHjHkao](https://71.schedule.icann.org/meetings/JHh7cZinAZMYutQ33#/?limit=10&sortByFields[0]=isPinned&sortByFields[1]=lastActivityAt&sortByOrders[0]=-1&sortByOrders[1]=-1&uid=sRMo5hmLvvdHjHkao)

for the Subsequent Procedures Final Report Outputs and on 24 June 2021, the ICANN Board had a similar discussion with the [GNSO Council](#).

The Board will consider community input on the substance of the Final Report once the Operational Design Phase has concluded and the Board is considering the approval of the Final Report.

What concerns or issues were raised by the community?

Some groups within the ICANN community have raised concerns regarding a potential Board request for an ODP for the New gTLD Subsequent Procedures Final Report Outputs. The three main concerns raised are:

- The time it will take to conduct an ODP may lead to delays in the launch of subsequent rounds of new gTLDs.
- The need to address dependencies before the application window for subsequent rounds of new gTLDs opens.
- Concern that the ODP assessment may inappropriately impact the intention or substance of the New gTLD Subsequent Procedures Final Report Outputs

The Board acknowledges the community's concerns and considered them prior to taking its decision to move forward with requesting an ODP. In evaluating the concerns, the ICANN Board considered that the work done during the ODP is expected to streamline the implementation phase due to the investment in advance preparations, and thus not lead to delays in the launch of subsequent application rounds. Additionally, the ICANN Board considered that the ODP is expected to address the concerns as it provides the opportunity to define, clarify, and resolve dependencies and the ODP has built in protections, such as the ICANN Board setting the limited scope of the ODP and the inclusion of a GNSO liaison as part of the ODP process to identify any policy questions that may arise during the course of the ODP.

What significant materials did the Board review?

The Board reviewed the Final Report, including minority statements, to decide whether the complexity of the outputs merits the launch of an Operational Design Phase to better inform the Board's determination whether the recommendations are in the best interest of the ICANN

community or ICANN, as noted above. The Board has also reviewed the [public comments](#) received in the comment period from 22 April 2021 to 1 June 2021. The Board will ultimately consider these inputs, as well as the Operational Design Assessment derived during the Operational Design Phase, as well as other relevant materials, in its determination on the Outputs in the Final Report.

What factors did the Board find to be significant?

To help facilitate the Board's determination whether the Outputs contained in the Final Report are in the best interest of the ICANN Community or ICANN, as noted above, the Board considered the following factors to be significant:

1. The volume and complexity of the Final Report Outputs:
 - The Final Report contains over three hundred Outputs.
 - Not all of the Final Report Outputs were approved by the GNSO Council.
 - Significant demand on resourcing to implement the Final Report Outputs.
2. The value of assessing the Final Report Outputs as a whole rather than on an individual basis:
 - A significant number of the Outputs are interrelated or have dependencies.
 - Some rules and procedures from the 2012 round have been reaffirmed, others have been amended, and others are new.
3. A need to understand what resourcing is required to launch subsequent rounds of new gTLDs based on the Outputs contained in the Final Report:
 - An overview of expected costs, including staffing, contracting, systems, and other long-term costs involved in implementing and operating future rounds is important for organizational planning.
 - This includes an overview of one-off costs versus those that will be ongoing.

Are there positive or negative community impacts?

The overall impact of the ODP on the community is positive. The ODP will provide additional transparency into the Board's consideration of the SubPro PDP Working Group's Outputs: the ODP is a transparent process and the community will be kept updated throughout. The ODP team will provide regular updates via webinars, blogs, dedicated webpage presence, community sessions, and progress updates, thereby further enhancing transparency.

ICANN org will also seek appropriate community feedback on the facts, figures, and assumptions that will be included in its ODP assessment, providing the community with an opportunity to submit feedback on the materials the Board will review before its decision. While the conduct of the ODP may extend the time the Board will take to resolve on the Outputs, the ODA, which includes a high-level, end-to-end operational design model of the Outputs, will become an invaluable tool to help streamline the implementation timeline.

Are there fiscal impacts or ramifications on ICANN (strategic plan, operating plan, budget); the community; and/or the public?

Initiating and conducting an ODP for the Subsequent Procedures Final Report Outputs is a significant undertaking and will require a considerable amount of ICANN org resources. The President and CEO and [the Board Finance Committee (BFC)] recommended that the ICANN Board authorize a range of US\$7-\$9M in spending to fund the needed resources⁵.

The resolution includes approval to spend up to US\$9M to fund the additional resources required to initiate and conduct the ODP. The ICANN Board approved the upper limit of the estimated US\$7M-\$9M to provide the ICANN org with the maximum flexibility to ensure prudent planning and to minimize time during the ODP in the event that org would need to come back to the Board to request additional funding.

The ODP for the Subsequent Procedures Final Report will be an integral part of the preparation work for the next round of subsequent procedures for new gTLDs and will be incurred regardless. As such, the costs incurred during the ODP phase are considered part of the development costs for the next round and will be incurred regardless.

The funding to pay for such development costs, including those for an ODP for the Subsequent Procedures Final Report, will come from the new gTLD application round remaining application fees. These funds are intended to be used on the program, are not specifically earmarked for a specific round, and are therefore being recommended to fund the ODP relating to this new round.

⁵ Appendix A to this Board paper includes additional detail about the estimated range of spending to fund the ODP

ICANN org is working under the general assumption that there will be subsequent rounds of new gTLDs. The estimated resource requirements for the ODP have been calculated to ensure that, under the assumption there will be future rounds, following a Board decision regarding the New Generic Top Level Domain (gTLD) Subsequent Procedures Policy Development Process Final Report, ICANN org will be well positioned to not only support the ODP itself, but to use the additional resources to support implementation planning, implementation, and ongoing operations of the approved policy recommendations.

A key component of the anticipated resource expenditures will be additional staffing for ICANN org to increase its capacity to meet the additional demand on resources. ICANN org will be seeking a combination of temporary staff and FTEs to support the ODP, which will vary and be dictated by the type and duration of the work being performed. Each FTE or temporary resource translates to approximately 1,800 working hours per year. ICANN org will leverage the opportunity, where needed and appropriate, to begin hiring and training full-time staff to support the ODP and who will be trained and ready to support implementation planning, implementation, and ongoing operations following the Board's decision regarding the Subsequent Procedures Final Report. In cases where the additional staff resource requirements are shorter term or less permanent, ICANN org will leverage the most appropriate staffing solution.

ICANN org will also utilize the approved funds to seek outside support and expertise where relevant, e.g., regarding legal matters, operational support, and technical matters. In light of the [ICANN Board's 15 July 2021 resolution](#), ICANN org included in its estimated resource requirements a line item to investigate whether it is feasible for ICANN org to facilitate small in-person or hybrid community meeting(s), should travel and meeting conditions allow, to begin generating awareness in underserved regions regarding the potential opportunity of subsequent rounds, to initiate discussions regarding how ICANN org will provide support for linguistic needs and Internationalized Domain Names, and to provide information regarding ICANN's mission and the goals of the new gTLD initiative.

As this ODP request will be funded from the New gTLD Program fund, a specific source of funds that is separate from ICANN org's day-to-day funding source, the risk that conducting this will have a negative impact on ICANN org's operations is mitigated.

ICANN org's Strategic and Operating plans include goals and initiatives, respectively, which are directly tied to the work of the Subsequent Procedures PDP Working Group and the preparation for new gTLD application rounds. The request for an ODP assessment of the Final Report Outputs from the Subsequent Procedures PDP is in alignment with ICANN org's overall planning and communications regarding both the Strategic and Operating plans.

Throughout the ODP, ICANN org will provide the community with periodic updates, opportunities to provide feedback, and an opportunity to review the work, thereby impacting community member resources as well.

Are there any security, stability or resiliency issues relating to the DNS?

The ODP will consider the impact that the Outputs may have on the security, stability or resiliency of the DNS, including from both an operational perspective and a risk perspective.

Is this decision in the public interest and within ICANN's mission?

As part of the ODP, the Board will explore public interest considerations, if any, that could result from implementation of the Final Report Outputs. The mechanism that will be used for ascertaining the public interest is the [Global Public Interest Framework](#) that was developed in collaboration with the ICANN community and Board, and that the Board agreed to pilot in FY21. The Framework will only be used as an evaluative tool for the Outputs.

Under ICANN's Mission, Commitments, and Core Values, ICANN is tasked with the following:

- Operating with efficiency and excellence, in a fiscally responsible and accountable manner.
- Promoting and sustaining a competitive environment in the DNS market, where feasible, and introducing and promoting competition in the registration of domain names, where practicable and beneficial to the public interest.
- Coordinating the allocation and assignment of names in the root zone of the Domain Name System and coordinating the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains.

Is this either a defined policy process within ICANN’s Supporting Organizations or ICANN’s Organizational Administrative Function decision requiring public comment or not requiring public comment?

This is an Organizational Administrative Function that does not require public comment, but it should be noted that the Final Report Outputs were the subject of public comment, and the [ODP Process](#) was developed in collaboration with the ICANN community. Additionally, the ODP itself is an open and transparent process and it is foreseen that stakeholders will be able to provide comments and feedback throughout the design phase.

Signature Block:

Submitted by:

Position:

Date Noted:

Email:

Appendix
Supplemental Information on Estimated ODP Expenses

| Estimated ODP Expenses | Staff/Contractors (estimated range) | USD\$ in millions (estimated range) |
|--------------------------------|--|--|
| Full-Time Equivalent (FTE) | 22-34 | \$2.8M-\$3.3M |
| Temporary Resources | 10-15 | \$1.7M-\$2.2M |
| External Support and Expertise | | \$2.5M-\$3.5M |
| Total | 32-49 | \$7.0M-\$9.0M |

The ICANN org President and CEO and the Board Finance Committee (BFC) recommend that the ICANN Board authorize a range of US\$7-\$9M in spending to fund the resources needed for ICANN org to initiate and conduct an ODP for the Subsequent Procedures Final Report Outputs. This work will build the design and lead to a more efficient and effective implementation.

ICANN org is using a general assumption that the ODP phase will be followed, after Board approval, by a phase of preparation for the next round for subsequent procedures for new gTLDs and, therefore, in many cases, FTE resources may be hired to handle the ODP work, which would have been handled by temporary resources under a different assumption. Each FTE or temporary resource translates to approximately 1,800 working hours per year.

A key component of the expenditures will be additional staffing for ICANN org to increase the capacity of the ICANN organization. Some of the new resources will directly support the ODP, while some will backfill existing staff that will be supporting the ODP (and program preparation work after Board adoption) and transitioning their prior work. ICANN will be seeking a combination of temporary resources and FTEs to support this project. The decision to utilize temporary resources or FTEs will be dictated by the type and duration of the work being performed. Work that is temporary in nature and will no longer continue once the ODP is completed will be handled by temporary resources whereas work that would continue through

the multiple phases of the project or become part of ongoing operations will be supported by FTEs.

ICANN org included, in its estimated expenses, a line item to investigate whether it is feasible for ICANN org to facilitate small in-person or hybrid community meeting(s), should travel and meeting conditions allow, to begin generating awareness in underserved regions regarding the potential opportunity of the next round, to initiate discussions regarding how ICANN org will provide support for linguistic needs and Internationalized Domain Names, and to provide information regarding ICANN's mission and the goals of the new gTLD initiative.

New gTLD Subsequent Procedures Operational Design Phase (ODP): Scoping Document, Board Resolution, Funding and Next steps

PROPOSED RESOLUTION:

Whereas, on 18 February 2021 the GNSO Council approved the Affirmations, Recommendations, and Implementation Guidance (collectively, referred to as "Outputs") that were determined to have received either Full Consensus or Consensus designations as documented in its New gTLD Subsequent Procedures Policy Development Process.

Whereas, the Board has begun its deliberations to consider whether the Outputs in the New gTLD Subsequent Procedures Final Report are in the best interests of the ICANN community or ICANN.

Whereas, the Board wishes to utilize the Operational Design Phase (ODP) process to assess all of the Final Report Outputs and to gather more information as part of its deliberations.

Whereas, The ODP for the Final Report Outputs will be an initiation and an integral part of the preparation work for a possible next application round for new gTLDs based on the existing new gTLD policy of 2008, as modified by the GNSO Subsequent Procedures recommendations, if and when those recommendations are approved, and the costs incurred during the ODP phase are considered part of the necessary development costs for that possible next round.

Whereas, the ICANN President and CEO and the Board Caucus on the New gTLD Subsequent Procedures Policy Development Process have recommended that the Board authorize the President and CEO, or his designee(s), to initiate and conduct an ODP on all of the Final Report Outputs from the New gTLD Subsequent Procedures Policy Development Process.

Whereas, the Board recognizes that the ODP is a significant undertaking and will require a considerable amount of ICANN org resources to execute, thereby creating the need for a range of US\$7-\$9M in spending to fund the necessary resources.

Whereas, the ICANN President and CEO and the Board Finance Committee have recommended that the Board authorize the President and CEO, or his designee(s), to spend up to US\$9M to fund the resources needed for ICANN org to initiate and conduct the ODP and any additional related work that may be required to support the ICANN Board's consideration of the New Generic Top Level Domain (gTLD) Subsequent Procedures Policy Development Process Final Report.

Resolved (2021.09.xx.xx), the Board directs the President and CEO, or his designee(s), to conduct the Operational Design Phase (ODP) by addressing the questions outlined in the New gTLD Subsequent Procedures Operational Design Phase Scoping Document. The Board further directs the President and CEO, or his designees(s), to take the steps needed to organize the resources required to begin work on the ODP, and to advise the Board when the work of the ODP is initiated within the organization. The Board requests regular updates on the progress of the work and delivery of the Operational Design Assessment (ODA), the expected output of the ODP, within ten months from the date of initiation, provided that there are no unforeseen matters

that could affect the timeline, of which any such matters are to be communicated to the Board immediately upon identification.

Resolved (2021.09.xx.xx), the Board authorizes the President and CEO, or his designee(s), to spend up to US\$9M to fund the internal project organization needed to initiate the ODP, the execution of the ODP including community engagement, formation and delivery of an ODA to the Board, and any additional related work that may be required to support the ICANN Board's consideration of the New Generic Top Level Domain (gTLD) Subsequent Procedures Policy Development Process Final Report until such a time when the ICANN Board has made its determination regarding said report. This work is considered the initiation and an integral part of the preparation for the next round, and its costs part of the development costs for it. The source of the funding for the ODP is intended to be the New gTLD Program funds, composed of the remaining funds of the 2012 round.

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New gTLD Subsequent Procedures Operational Design Phase Scoping Document

I. Introduction

On 18 February 2021, the Generic Name Support Organization (GNSO) Council voted to approve the [New Generic Top Level Domain \(gTLD\) Subsequent Procedures Policy Development Process Final Report](#) (the “Final Report”). The Final Report contains Affirmations, Recommendations, and Implementation Guidance (collectively referred to as “Outputs”). On 24 March 2021, the GNSO Council transmitted its [Recommendations Report](#) to the ICANN Board, following the GNSO Council’s approval of the Final Recommendations, and the Board is now considering the Outputs contained in the Final Report.

In order to facilitate the Board’s review and consideration of the Outputs, the Board is requesting that ICANN organization conduct an [Operational Design Phase](#), with the purpose to facilitate the Board’s determination whether the Outputs contained in the Final Report are in the best interest of the ICANN community or ICANN. The Board has directed the President and CEO to take the steps needed to organize the resources required to begin work on the Operational Design Phase, and to advise the Board when the work of the Operational Design Phase is initiated within the organization.

The Board requests delivery of the Operational Design Assessment, the expected output of the Operational Design Phase, within ten months from the date of initiation, provided that there are no unforeseen matters that could affect the timeline, of which any such matters are to be communicated to the Board immediately upon identification.

This document provides the Parameters (see Section II below), and Scope (see Section III below) within which the Operational Design Phase should be conducted.

II. Parameters

ICANN org is expected to conduct its Operational Design Phase based on the following parameters:

- The Operational Design Phase is performed from the perspective of preparing the ICANN Board to make a decision regarding the Outputs and makes no judgment on the Board's determination whether to approve the Final Report.
- The Operational Design Phase will be organized by work area and includes operational design analysis based on the Outputs as well as any additional anticipated aspects required to implement and operate the recommended processes.
- In cases where ICANN org needs to rely on assumptions¹ to complete its analysis, the assumptions will be explicitly stated in the Operational Design Assessment to provide transparency for the Board and community; and to assist in understanding the overall assessment.
- Implementation may be dependent on other community or ICANN org efforts outside of the specific Output-related implementation work. Such efforts will be clearly identified, documented, and explained, including how the Operational Design Assessment does or does not address the identified dependencies.
- Initiating and conducting an Operational Design Phase is not a minor undertaking and will require significant ICANN org resources to execute and deliver the information within the specified timeframe.
- Some questions may only be addressed after the Operational Design Phase is completed and, should the GNSO Council's Final Report be adopted, once implementation of such Outputs has begun.
- The analysis in response to the questions posed in Section 8, Risks will be as transparent as possible, without augmenting risk to the ICANN community or ICANN.

III. Scope

ICANN org is tasked with developing a high-level operational implementation model. ICANN org is expected to conduct its Operational Design Phase assessment of the Outputs guided by the scope as specified below, but may include additional analysis as it deems necessary. This document focuses on the immediate next round, however also considers elements for subsequent rounds for purposes of scalability. The immediate next round is defined as the New gTLD application round following the 2012 round, while subsequent rounds are defined as those rounds following the immediate next round.

¹ As part of ICANN org's readiness to support future rounds of new gTLDs, org has defined a set of [planning assumptions](#) for use in its preliminary planning work. These existing planning assumptions will continue to be applied and updated in a transparent manner.

1. Governance

1.1. ICANN Board and Org Governance Structure

1.1.1. What is the ICANN org and Board governance structure for managing and overseeing implementation of the Outputs if they are approved by the ICANN Board?

1.2. Implementation Review Team (IRT)

1.2.1. In addition to the [Consensus Policy Implementation Framework](#) (CPIF), what additional best practices or mechanisms can be used to manage an IRT of this complexity to maximize productivity, effectiveness, and efficiency?

1.3. Predictability Framework and the Standing Predictability Implementation Review Team (SPIRT)

1.3.1. What are the proposed criteria for an issue to become a candidate for the Predictability Framework?

1.3.2. What is the proposed process flow for the Predictability Framework?

1.3.3. What are the roles and responsibilities of various parties (GNSO Council, ICANN org, applicants, objectors, other Supporting Organizations/Advisory Committees, ICANN Board) in relation to the predictability framework?

1.3.4. What mechanisms are proposed to reconcile disparate decisions, should they occur, between any combination of the parties (e.g., SPIRT, GNSO Council, ICANN Board, ICANN org) under the Predictability Framework?

1.4. GAC Consensus Advice for New gTLDs

1.4.1. What are the proposed criteria and processes for handling GAC Consensus Advice?

2. Processing and Operations: Application, New Registry Operator, and Other Related Support

2.1. Application Submission and Processing

2.1.1. What is the proposed length of the application window?

2.1.2. What are the proposed application submission requirements?

2.1.2.1. What materials are required from the prospective applicants?

- 2.1.2.2. What impact could economic and trade sanctions have on application processing of implementing the Outputs?
- 2.1.3. What is the proposed overall application submission and processing flow/lifecycle?
 - 2.1.3.1. What application system user types are anticipated, what is the level of authority proposed for each type, and how is each level of authority established?
 - 2.1.3.2. How will the overall application process flow/life cycle vary by (1) application type (e.g., Standard, Community, Geographic Names, .Brand/Specification 13), (2) string types (e.g., Geographic Names, Internationalized Domain Names (IDN) TLDs, Variant TLDs, strings subject to Category 1 Safeguards), or (3) applicant type (e.g., Intergovernmental organizations (IGO), governmental entities, Applicant Support)?
- 2.1.4. How will applications be sequenced for evaluation and what methodology will be utilized for the evaluation sequencing?
- 2.1.5. What are the proposed criteria and processes for the Registry Service Provider (RSP) Pre-Evaluation?
- 2.1.6. What are the proposed criteria and processes for the Applicant Support Program (ASP)?
- 2.1.7. Application Comments
 - 2.1.7.1. What is the proposed application comments process?
 - 2.1.7.2. How will application comments be integrated into the overall evaluation process?
- 2.1.8. Governmental Advisory Committee (GAC) Early Warning
 - 2.1.8.1. What is the proposed process for GAC Early Warnings?
- 2.2. Application Evaluation
 - 2.2.1. What are the proposed criteria and processes for each type of evaluation?
 - 2.2.1.1. How will the evaluation processes vary by (1) application type (e.g., Standard, Community, Geographic Names, .Brand/Specification 13), (2) string types (e.g., Geographic Names, Internationalized Domain Names (IDN) TLDs, Variant TLDs, strings subject to Category 1 Safeguards), or (3) applicant type (e.g., Intergovernmental

organizations (IGO), governmental entities, Applicant Support)?

- 2.3. Dispute Resolution and Contention Resolution Mechanisms
 - 2.3.1. Objections
 - 2.3.1.1. What are the proposed criteria and processes for each type of Objection?
 - 2.3.1.1.1. String Confusion Objection
 - 2.3.1.1.2. Existing Legal Rights Objection
 - 2.3.1.1.3. Limited Public Interest Objection
 - 2.3.1.1.4. Community Objection
 - 2.3.1.2. What proposed criteria and processes will be used when selecting the Dispute Resolution Service Providers for each type of Objection?
 - 2.3.1.3. What resources are needed to support the Dispute Resolution Service Providers for each type of Objection?
 - 2.3.2. Independent Objector (IO)
 - 2.3.2.1. What proposed criteria and processes will be used when selecting the IO?
 - 2.3.2.2. What resources are needed to support the IO?
 - 2.3.3. Resolution of Contention Sets
 - 2.3.3.1. What are the proposed criteria and processes for contention resolution?
 - 2.3.3.1.1. What are the proposed auction mechanisms?
 - 2.3.3.1.2. What processes, if any, are needed to take into account private forms of resolution?
 - 2.3.4. Limited Challenge/Appeals Mechanism
 - 2.3.4.1. What types of challenges/appeals are proposed?
 - 2.3.4.1.1. What are the proposed criteria and processes for each type of challenge/appeal?
 - 2.3.4.2. What proposed criteria and processes will be used when selecting the arbiter(s) for each type of challenge/appeal?
 - 2.3.4.2.1. What resources are needed to support the arbiter(s)?
 - 2.3.5. Post-Delegation Dispute Resolution Procedures (PDDRP)
 - 2.3.5.1. What are the proposed criteria and processes for post-delegation dispute resolution procedures?
 - 2.3.5.1.1. Public Interest Commitments Dispute Resolution Procedure (PICDRP)

- 2.3.5.1.2. Registration Restrictions Dispute Resolution Procedure (RRDRP)
- 2.3.5.1.3. Trademark Post Delegation Dispute Resolution Procedure (TM-PDDRP)
- 2.3.5.1.4. Uniform Rapid Suspension (URS)
- 2.4. Transition to Delegation, and Delegation
 - 2.4.1. Contracting
 - 2.4.1.1. What are the proposed criteria and contracting processes?
 - 2.4.1.2. What form of Registry Agreement will be used to contract with applicants who have passed evaluation and are eligible for contracting?
 - 2.4.2. Registry System Testing (Pre-Delegation Testing (PDT))
 - 2.4.2.1. What are the proposed testing criteria for each type of entity (e.g., applicant, registry services provider) that may be subject to Registry System Testing?
 - 2.4.2.2. What are the proposed Registry System Testing processes?
 - 2.4.2.3. What are the testing requirements for Registry Service Providers (RSPs), to include RSP Pre-Evaluation?
 - 2.4.3. Delegation
 - 2.4.3.1. What are the proposed criteria and processes for delegation?
 - 2.4.3.2. What are the proposed criteria and processes ICANN org will follow to establish and track the appropriate rate of delegation?
 - 2.4.3.2.1. What is the clamping mechanism should the desired maximum rate of delegation be reached?
 - 2.4.3.2.2. What public documentation and reporting should be posted to document the delegation evaluation?
- 2.5. gTLD Start-Up and Onboarding
 - 2.5.1. What are the proposed criteria and processes for onboarding?
 - 2.5.2. What are the proposed criteria and processes for the Sunrise and Trademark Claims services?

- 2.5.3. What is the proposed volume of transactions that the Sunrise and Trademark Claims Platform or Support Services will be able to support?
- 2.6. Application Round Communications, Resource Materials, and Documentation
 - 2.6.1. What is the proposed overall communications plan for implementing the Outputs?
 - 2.6.2. What are the required application round resource materials and documentation for the commencement of the immediate next application round (e.g., application, Applicant Guidebook (AGB), external/internal website pages, inter-departmental processes and procedures, and supporting materials)?
 - 2.6.3. What are the associated implementation milestones for each of the required resource materials and documentation?
- 2.7. Data Protection/Privacy
 - 2.7.1. How will ICANN org's data protection/privacy issues practices be applied?
 - 2.7.2. What personal data does ICANN org anticipate requesting from parties related to implementation of the Outputs?
 - 2.7.3. What are the data disclosure requirements for notifying parties about who could see their data and for what purposes?
 - 2.7.4. How will the personal data that is collected be held and secured, and for how long?
- 2.8. Security and Stability
 - 2.8.1. What resources/tools/planning would be required to address unforeseen DNS stability issues resulting from implementation of the Outputs?
 - 2.8.2. What mechanisms need to be in place to coordinate and track effects on the DNS root server system?
- 2.9. Operations of the Immediate Next and Subsequent Rounds
 - 2.9.1. What is the proposed end-to-end operational process flow for implementing the Outputs?
 - 2.9.1.1. Which, if any, existing ICANN processes may be integrated into the process design?
 - 2.9.2. What is the proposed volume the operational process flow will be designed to manage for the immediate next round?
 - 2.9.3. To what degree can the design be flexible enough to address future operational changes?

- 2.9.3.1. Can the design be flexible enough to incorporate future changes in law(s) or ICANN policy(ies), and if yes, to what degree?
- 2.9.4. What are the proposed criteria and processes for the Emergency Back-End Registry Operator (EBERO) and the associated triggers of the five critical registry functions?
- 2.9.5. What procedures need to be in place to support transitions between rounds, where transitions represent the process of going from one round to another?
 - 2.9.5.1. What are the minimum operational requirements (or prerequisites) for the subsequent opening of a new application window?
 - 2.9.5.2. Can ICANN support multiple rounds simultaneously?
- 2.9.6. What are the proposed criteria and processes for closing a round?
- 2.9.7. What types of assistance will be provided to applicants and other parties? What areas will fall within this remit (e.g., general question and answer, consultation, tech support, etc.)?
 - 2.9.7.1. What forms of assistance can be supported (e.g., email, phone, chat, etc.)?
 - 2.9.7.2. In what languages will org provide assistance?

3. Global Engagement, Linguistic Support, and Localization

- 3.1. Global Engagement, Awareness and Communications
 - 3.1.1. What mechanisms (e.g., training, translations, documentation) are proposed to support inclusion of local languages and scripts?
 - 3.1.2. What outreach and engagement strategies will be used to reach audiences across multiple regions around the world?
- 3.2. Applicant Support Program (ASP)
 - 3.2.1. What additional mechanisms, if any, are required to sustain the Applicant Support Program?
 - 3.2.2. What outreach and engagement strategies will be used to reach audiences, across multiple regions around the world, specific to the Applicant Support Program.
- 3.3. Universal Acceptance (UA)
 - 3.3.1. What mechanisms are required to support universal acceptance of TLDs in multiple languages and scripts and

how could they be integrated into the operational process for implementing and delivering the Outputs?

3.3.2. What resources will ICANN org provide to support applicants and promote universal acceptance solutions?

3.4. Localization and Inclusion

3.4.1. What additional internal tools or resources, if any, are proposed to support inclusion of multiple languages and scripts throughout the application, launch, and registry operations processes?

4. ICANN Contractual Compliance

4.1. What are the proposed criteria and Contractual Compliance processes design for complaints generated from new gTLDs that are delegated as a result of the Outputs?

4.2. How will Contractual Compliance's current processes for registry complaints integrate with its proposed process for complaints resulting from new gTLDs that are delegated as a result of the Outputs?

5. Systems and Tools

Information systems and tools that would be needed for implementation of the Outputs will be formulated during the ODP to provide proposed systems design that are intended to meet economies of scale and support organizational efficiencies.

5.1. What is the proposed information technology design?

5.1.1. How will the proposed information technology design support universal acceptance, including email address internationalization?

5.2. Will the systems design be able to integrate into any existing ICANN systems? If yes, which ones?

5.2.1. How will the ICANN systems that new registries must connect to integrate with information technology design so new registries can meet their contractual obligations for reporting, uptime, centralized zone data access, etc.?

5.2.2. How will the connections between ICANN org systems (Registry Reporting Interface (RRI), Registry Data Escrow (RyDE), Centralized Zone Data Service (CZDS), Customer Relationship Management (CRM), Service Level Agreement

Monitoring System (SLAM)) and registry operator systems be established?

- 5.3. What testing methodologies will be employed for deployment and updates for each ICANN system?
 - 5.3.1. What user testing will ICANN org execute for each ICANN system prior to launch?
- 5.4. What is the proposed maximum capacity each ICANN system will be able to support for each application?
- 5.5. What are the proposed Service Level Agreements (SLAs) for each ICANN system?
- 5.6. What security measures are proposed to be in place for protecting applicant data and all other confidential information in each ICANN system?
 - 5.6.1. What type of user access permissioning levels are proposed to be provided for each ICANN system?

6. Vendors and Third Parties

- 6.1. Which processes or other components may require procurement of specialized expertise or additional capacity?
 - 6.1.1. What are the proposed criteria and processes for identifying and selecting vendors and third parties?

7. Resources and Staffing

- 7.1. What human capital and other internal resources are estimated and what is the expected level of effort for ICANN org for each area of work outlined below?
 - 7.1.1. Design and Policy Implementation
 - 7.1.1.1. Governance
 - 7.1.1.1.1. ICANN Board and Org Governance Structure
 - 7.1.1.1.2. Implementation Review Team (IRT)
 - 7.1.1.1.3. Predictability Framework/SPIRT
 - 7.1.1.2. Formulation of the Applicant Guidebook (AGB)
 - 7.1.1.3. Initial Baseline Risk Assessment
 - 7.1.2. Infrastructure Development and Operationalization
 - 7.1.2.1. Application Processing
 - 7.1.2.2. Vendor Research, Evaluation, and Selection
 - 7.1.2.3. System and Tool Development
 - 7.1.2.4. Legal Instrument(s) Creation
 - 7.1.2.5. Resource Plan and Execution

- 7.1.2.6. Financial Plan and Execution
- 7.1.2.7. Communications Plan and Execution
- 7.1.2.8. Contractual Compliance
- 7.1.3. Round Launch and Operations of the Immediate Next Round
- 7.1.4. ICANN org support for Ongoing Registry Operator Operations

8. Finance

- 8.1. What is the cost estimate to design, build, and launch operations for the Outputs?
- 8.2. What are the estimated application fees and application related fees?
- 8.3. What are the estimated registry operator fees and registry operator related fees?

9. Risks

- 9.1. Identify the likelihood and degree of business, legal, reputational, or political risk, if any, that implementation of one or more of the Outputs may create for ICANN, and what measures are proposed to mitigate or manage any identified risk(s).
- 9.2. Would implementation of the Outputs create any potential conflicts with the ICANN Bylaws and if so, how can those conflicts be addressed?
- 9.3. Is there any risk that existing policy or anticipated policy changes, or ICANN contractual requirements or amendments could conflict with implementation of the Outputs? If yes, what is the likelihood and degree of the risk(s) created, and what measures are proposed to mitigate or manage any identified risk(s)?
- 9.4. What is the likelihood and degree of risk to ICANN if future changes in law(s) impact the implementation of the Outputs, and what measures are proposed to mitigate or manage any identified risk(s)?
- 9.5. Identify which of the Outputs, if any, still remain unspecified or unclear and may lead to potential implementation challenges and provide any options, should they exist, for resolution.
- 9.6. Identify the likelihood and degree of security, stability, and resiliency risk, if any, to the internet ecosystem that implementation of the Outputs may create, and what measures are proposed to mitigate or manage any identified risk(s).

- 9.7. Identify the likelihood and degree of risk, if any, that may arise if the launch of future rounds does not occur as planned, such as a materially delayed launch due to external disruptions (e.g., global pandemic, other potential external disruptions), and what measures are proposed to mitigate or manage the identified risk(s).
- 9.8. What is the likelihood and degree of risk, if any, that implementation of the Outputs will result in a significant shortfall or excess of funding as compared with estimates, and what measures are identified to mitigate or manage the identified risk(s)?

10. Dependencies and Prerequisites

- 10.1. What are the prerequisites to the opening of the immediate next round?
- 10.2. What dependencies, if any, does implementation of the Outputs have on other ICANN org work?
- 10.3. What existing advice or community recommendations (e.g., policy, review team, cross-community working group), if any, create a dependency for implementation of the Outputs? Of the existing advice or community recommendations, what are the requirements to resolve them and, by when?
- 10.4. What community work is currently in progress, if any, that may create a dependency for implementation of the Outputs, and what is the anticipated impact?
- 10.5. How will the areas in the Outputs where there is no policy guidance or where the Output(s) did not receive full consensus be addressed?
- 10.6. Identify the Outputs, if any, where a feasible implementation solution has not been identified.

11. Global Public Interest Framework

- 11.1. What impact, if any, do the Outputs have on the Global Public Interest as evaluated using the [procedural framework](#) that was published in June 2020?

12. Timeline

- 12.1. What is an estimated timeline to design, build, and deliver the immediate next round including specific timing for the items listed below?
 - 12.1.1. Design and Policy Implementation
 - 12.1.1.1. Governance
 - 12.1.1.1.1. ICANN Board and Org Governance Structure
 - 12.1.1.1.2. Implementation Review Team (IRT)
 - 12.1.1.1.3. Predictability/SPIRT
 - 12.1.1.2. Formulation of the Applicant Guidebook (AGB)
 - 12.1.1.3. Initial Baseline Risk Assessment
 - 12.1.2. Infrastructure Development and Operationalization
 - 12.1.2.1. Application Processing
 - 12.1.2.2. Vendor Research, Evaluation, and Selection
 - 12.1.2.3. System and Tool Development
 - 12.1.2.4. Legal Instrument(s) Creation
 - 12.1.2.5. Resource Plan and Execution
 - 12.1.2.6. Financial Plan and Execution
 - 12.1.2.7. Communications Plan and Execution
 - 12.1.2.8. Contractual Compliance
 - 12.1.3. Round Launch and Operations of the Immediate Next Round
 - 12.1.4. ICANN org Support for Ongoing Registry Operator Operations
- 12.2. What are the associated milestones within each phase?

Annex A

Sub Pro PDP WG Final Report Topic Mapping to the Sub Pro ODP Scoping Document (Non-Exhaustive)

| Sub Pro PDP WG Final Report Topic # | Sub Pro PDP WG Final Report Topic | Sub Pro ODP Scoping Document Sections (Non-Exhaustive) |
|-------------------------------------|---|--|
| Overarching Issues | | |
| 1 | Continuing Subsequent Procedures | Section 2.9 |
| 2 | Predictability Framework * | Sections 1.3, 7.1, & 12.1 |
| 3 | Applications Assessed in Rounds | Sections 2.1, & 2.9 |
| 4 | Different TLD Types | Sections 2.1, & 2.2 |
| 5 | Application Submission Limits | Sections 2.1, 2.9, 7.1, & 12.1 |
| 6 | Registry Service Provider Pre-Evaluation | Sections 2.1, & 2.4 |
| 7 | Metrics and Monitoring | Section 1.1 |
| 8 | Conflicts of Interest | Section 9 |
| Foundational Issues | | |
| 9 | Registry Voluntary Commitment/Public Interest Commitments * | Sections 4, & 10 |
| 10 | Applicant Freedom of Expression | Section 3.4 |
| 11 | Universal Acceptance | Section 3.3 |
| Pre-Launch Activities | | |
| 12 | Applicant Guidebook | Sections 2.6, 7.1, & 12.1 |
| 13 | Communications | Sections 2.6, 3.1, 3.2, 7.1, & 12.1 |
| 14 | Systems | Sections 2.1, 2.4, 2.8, 5, 7.1, & 12.1 |
| Application Submission | | |
| 15 | Application Fees | Section 8 |
| 16 | Application Submission Period | Section 2.1 |
| 17 | Applicant Support * | Sections 2.1, 2.2, & 3.2 |
| 18 | Terms and Conditions * | Sections 8, 9, 7.1, & 12.1 |
| Application Processing | | |
| 19 | Application Queuing | Sections 2.1, 7.1, & 12.1 |
| 20 | Application Change Requests | Sections 2.1, 7.1, & 12.1 |

Sub Pro ODP Scoping Document 2021.07.Sept

| Sub Pro PDP WG Final Report Topic # | Sub Pro PDP WG Final Report Topic | Sub Pro ODP Scoping Document Sections (Non-Exhaustive) |
|-------------------------------------|---|--|
| | Application Evaluation/Criteria | |
| 21 | Reserved Names * | Section 2.2 |
| 22 | Registrant Protections | Section 2.2 |
| 23 | Closed Generics * | Sections 2.2, 10.5, & 10.6 |
| 24 | String Similarity Evaluations * | Sections 2.2 |
| 25 | Internationalized Domain Names (IDNs) | Sections 2.1, 2.2, & 3.4 |
| 26 | Security and Stability | Sections 2.8, & 9.6 |
| 27 | Applicant Reviews | Section 2.2 |
| 28 | Role of Applicant Comment | Section 2.1 |
| 29 | Name Collisions * | Sections 2.2, & 10 |
| | Dispute Proceedings | |
| 30 | GAC Consensus Advice and GAC Early Warnings * | Sections 1.4, & 2.1 |
| 31 | Objections | Section 2.3 |
| 32 | Limited Challenge/Appeal Mechanism * | Section 2.3 |
| 33 | Dispute Resolution Proceedings After Delegation | Section 2.3 |
| | String Contention Resolution | |
| 34 | Community Applications * | Sections 2.1, 2.2, & 2.3 |
| 35 | Auctions: Mechanisms of Last Resort / Private Resolution of Contention Sets * | Sections 2.3, 10.5, & 10.6 |
| | Contracting | |
| 36 | Base Registry Agreement | Sections 2.4, 7.1, & 12.1 |
| 37 | Registrar Non-Discrimination / Registry/Registrar Standardization | Section 2.4 |
| 38 | Registrar Support for New gTLDs | Section 2.4 |
| | Pre-Delegation | |
| 39 | Registry System Testing | Section 2.4 |
| | Post-Delegation | |
| 40 | TLD Rollout | Section 2.5 |

** Issues raised by the Board as comments to the Sub Pro PDP WG Draft Final Report. The Sub Pro Board Caucus will continue to discuss these and other topics over the next several months.*

REFERENCE MATERIALS - BOARD PAPER NO. 2021.09.12.1a

TITLE: **Operational Design Phase for New Generic Top Level Domain**
(gTLD) Subsequent Procedures Policy Development Process Final Report

BACKGROUND:

The Board is in receipt of the Final Report on the new gTLD Subsequent Procedures Policy Development Process and is being asked to consider initiating an Operational Design Phase to provide the Board with additional information as part of its deliberations on the outputs of the policy development process.

The Final Report Outputs concern complex operational requirements, and the Board will benefit from further due diligence to evaluate the impact of implementing the Final Report Outputs. The Board is considering whether to undertake that further due diligence by initiating an Operational Design Phase (ODP) to inform its deliberations about whether the Final Report Outputs are in the best interests of the ICANN community or ICANN ([ICANN Bylaws, Annex A, Section 9 \(a\)](#)).

KEY STAKEHOLDERS:

The Board followed closely relevant stakeholder discussions related to a possible launch of an ODP for the Final Report Outputs. During ICANN71, The Board also had constructive exchanges on this topic in its meetings with the [GAC](#). The Board also notes that during ICANN71 ICANN org provided [the GAC](#) with an update on the status of a potential ODP for the Final Report Outputs and on 24 June 2021, the ICANN Board had a similar discussion with the [GNSO Council](#).

The Board will consider community input on the substance of the Final Report once the Operational Design Phase has concluded and the Board is considering the approval of the Final Report.

POTENTIAL OBJECTIONS AND PROPOSED RESPONSES:

Some groups within the ICANN community have raised concerns regarding a potential Board request for an ODP for the Final Report Outputs. The three main concerns raised are:

- The time it will take to conduct an ODP may lead to delays in the launch of subsequent rounds of new gTLDs.
- The need to address dependencies before the application window for subsequent rounds of new gTLDs opens.
- Concern that the ODP assessment may inappropriately impact the intention or substance of the Final Report Outputs

The Board acknowledges the community's concerns and considered them prior to taking its decision to move forward with requesting an ODP. In evaluating the concerns, the ICANN Board considered that the work done during the ODP is expected to streamline the implementation phase due to the investment in advance preparations, and thus not lead to delays in the launch of subsequent application rounds.

Additionally, the ICANN Board considered that the ODP is expected to address the concerns as it provides the opportunity to define, clarify, and resolve dependencies and the ODP has built in protections, such as the ICANN Board setting the limited scope of the ODP and the inclusion of a GNSO liaison as part of the ODP process to identify any policy questions that may arise during the course of the ODP.

RESOURCE IMPLICATIONS:

Initiating and conducting an ODP for the Final Report Outputs is a significant undertaking and will require a considerable amount of ICANN org resources, such as additional personnel, third party vendors and contractors, etc. The President and CEO and [the Board Finance Committee (BFC)] recommended that the ICANN Board authorize a range of US\$7-\$9M in spending to fund the needed resources. The required resources are not included in ICANN org's annual budget, but instead are being requested from the New gTLD Program funds.

Signature Block:

Submitted by:

Position:

Date Noted:

Email:

ICANN BOARD PAPER NO. 2021.09.12.1c

TITLE: GAC Advice: ICANN71 Virtual Policy Forum
Communiqué (June 2021)

PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

The Governmental Advisory Committee (GAC) delivered advice to the ICANN Board in its [ICANN71 Virtual Policy Forum Communiqué](#) issued 21 June 2021. The advice concerns IGO Protections. The GAC also provided a follow-up to previous advice regarding CCT Review Recommendations, EPDP Phase 1 Policy Implementation, and Privacy Proxy Services Accreditation Implementation.

The ICANN71 Virtual Policy Forum Communiqué was the subject of an exchange between the Board and the GAC on 29 July 2021. The purpose of the exchange was to ensure common understanding of the GAC advice provided in the communiqué.

The Board is being asked to approve the GAC-Board Scorecard to address the GAC's advice in the ICANN71 Virtual Policy Forum Communiqué. The draft Scorecard is attached to this briefing paper. The draft Scorecard includes: the text of the GAC advice; the Board's understanding of the GAC advice following the 29 July 2021 dialogue with the GAC; the GNSO Council's review of the advice in the ICANN71 Virtual Policy Forum Communiqué as presented in a 27 July 2021 [letter](#) to the Board (included for Board review only and will not be part of the final scorecard); and the Board's proposed response to the GAC advice.

ICANN ORG RECOMMENDATION:

The ICANN org recommends that the Board adopt the attached scorecard to address the GAC's advice in the June 2021 ICANN71 Virtual Policy Forum Communiqué.

PROPOSED RESOLUTION:

Whereas, the Governmental Advisory Committee (GAC) met during the ICANN71 Virtual Policy Forum and issued advice to the ICANN Board in a [communiqué](#) on 21 June 2021 (“ICANN71 Virtual Policy Forum Communiqué”).

Whereas, the ICANN71 Virtual Policy Forum Communiqué was the subject of an exchange between the Board and the GAC on 29 July 2021.

Whereas, in a 27 July 2021 [letter](#), the GNSO Council provided its feedback to the Board concerning advice in the ICANN71 Virtual Policy Forum Communiqué relevant to IGO Protections, CCT Review Recommendations, EPDP Phase 1 Policy Implementation, and Privacy Proxy Services Accreditation Implementation.

Whereas, the Board developed a scorecard to respond to the GAC’s advice in the ICANN71 Virtual Policy Forum Communiqué, taking into account the dialogue between the Board and the GAC and the information provided by the GNSO Council.

Resolved (2021.09.12.xx.xx), the Board adopts the scorecard titled “GAC Advice – ICANN71 Virtual Policy Forum Communiqué: Actions and Updates (12 September 2021)” **[INSERT LINK TO FINAL GAC ADVICE SCORECARD ADOPTED BY BOARD]** in response to items of GAC advice in the ICANN71 Virtual Policy Forum Communiqué.

PROPOSED RATIONALE:

Article 12, Section 12.2(a)(ix) of the ICANN Bylaws permits the GAC to “put issues to the Board directly, either by way of comment or prior advice, or by way of specifically recommending action or new policy development or revision to existing policies.” In its ICANN71 Virtual Policy Forum Communiqué (21 June 2021), the GAC issued advice to the Board on IGO protections. The GAC also provided follow-up to previous advice regarding CCT Review Recommendations, EPDP Phase 1 Policy Implementation, and Privacy Proxy Services Accreditation Implementation. The ICANN Bylaws require the Board to take into account the GAC’s advice on public policy matters in the formulation and adoption of the polices. If the Board decides 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 the advice. Any GAC advice approved by a full consensus of the GAC (as defined in the Bylaws) may only be rejected by a vote of no less than 60% of the Board, and the GAC and the Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

The Board is taking action today on the GAC Consensus Advice to the ICANN Board in the ICANN71 Virtual Policy Forum Communiqué, including the items related to IGO Protections.

The Board's actions are described in the scorecard dated 12 September 2021 **[INSERT LINK TO FINAL GAC ADVICE SCORECARD ADOPTED BY THE BOARD]**.

In adopting its response to the GAC advice in the ICANN71 Virtual Policy Forum Communiqué, the Board reviewed various materials, including, but not limited to, the following materials and documents:

- ICANN71 Virtual Policy Forum Communiqué (21 June 2021):
<https://www.icann.org/en/system/files/correspondence/gac-to-icann-21jun21-en.pdf>
- The GNSO Council's review of the advice in the ICANN71 Virtual Policy Forum Communiqué as presented in the 27 July 2021 letter to the Board:
<https://www.icann.org/en/system/files/correspondence/fouquart-to-icann-board-27jul21-en.pdf>

The adoption of the GAC advice as provided in the scorecard will have a positive impact on the community because it will assist with resolving the advice from the GAC concerning gTLDs and other matters. There are no foreseen fiscal impacts associated with the adoption of this resolution. Approval of the resolution will not impact security, stability or resiliency issues relating to the DNS. This is an Organizational Administrative function that does not require public comment.

Signature Block:

| |
|---------------------------|
| Submitted by: David Olive |
|---------------------------|

Position: Senior Vice President, Policy Development Support

Date Noted: 12 September 2021

Email: david.olive@icam.org

Pages 39-53 Removed - Privileged & Confidential

GAC Advice – ICANN71 Virtual Policy Forum Communiqué: Board Action (12 September 2021)

| GAC Consensus Advice Item | Advice Text | Board Understanding Following Board-GAC Call | Board Response |
|--|---|--|--|
| <p>§1.a.1 - IGO Protections</p> | <p>While continuing to welcome work being undertaken by the GNSO in terms of a curative rights protection mechanism for IGOs, the GAC wishes to clarify that the current moratorium on the registration of IGO acronyms should remain in place pending a conclusion to this curative work track.</p> <p>a. The GAC advises the Board to:</p> <p>i. to maintain the current moratorium on the registration of IGO acronyms pending the conclusion of the IGO curative work track currently underway (noting that it is expected to conclude within the calendar year).</p> <p><u>RATIONALE:</u></p> <p>In the context of the above-mentioned curative rights work track, in the ICANN70 Communiqué, the GAC had recalled “<i>ICANN agreement on a moratorium for new registrations of IGO acronyms ahead of a final resolution of this [curative rights protection] issue.</i>” The GAC does not share the Board’s view in its 2 June 2021 email that “<i>the GAC’s concern about the need to protect IGOs on a permanent basis is addressed by the Board’s determination to provide IGOs with a post-registration notification service on a permanent, ongoing basis.</i>” The GAC does not share the Board’s assessment that such notification would “<i>allow[] an IGO to take appropriate action to protect related acronyms.</i>” In the absence of access to a curative rights protection mechanism, a notification is of no real utility, because an IGO has no current ability to arbitrate a domain name dispute. The GAC previously has advised the Board to maintain current temporary protections of IGO acronyms in the ICANN61 San Juan and ICANN62 Panama Communiqués, noting in the San Juan Communiqué that the “<i>removal of interim protections before a permanent decision on IGO acronym protection [(i.e., a curative mechanism)] is taken could result in irreparable harm to IGOs.</i>”</p> | <p>The Board understands that the GAC would like the Board to maintain the current interim reservations for IGO acronyms until the IGO Work Track that is currently underway in the GNSO completes its work.</p> | <p>The Board acknowledges the GAC advice to maintain the current moratorium on second-level registrations of domain names matching the acronyms of IGOs currently on the GAC List (dated March 2013), pending the conclusion of the IGO Work Track that is currently expected to complete its work by the end of 2021. In this regard, the Board notes the GNSO Council’s initiation of an Expedited Policy Development Process on 19 August 2021 as a procedural matter, to maintain the IGO Work Track’s momentum without any material negative impact, including to its scope or anticipated timeline for completion.</p> <p>The Board reiterates its position that “<i>the GAC’s concern about the need to protect IGOs on a permanent basis is addressed by the Board’s determination to provide IGOs with a post-registration notification service on a permanent, ongoing basis.</i>” In this regard, the Board notes that this statement relates specifically to the need to provide IGOs with protections that comply with, but do not exceed, the scope of international law. The Board has consistently maintained that the proposed post-registration notification service for IGOs “<i>will form part of the totality of IGO protections when combined with the existing Consensus Policy that protects IGO full names and the final outcomes of the GNSO’s IGO Work Track</i>” (see, e.g., the Board scorecard in response to the GAC’s ICANN70 Communiqué: https://www.icann.org/en/system/files/files/resolutions-icann70-gac-advice-scorecard-12may21-en.pdf.) It follows that the Board has not taken the position that the only permanent protections that can be provided for IGO acronyms are limited to the post-registration notification service. However, the Board emphasizes that the final scope of total protections for IGO acronyms is a matter to be determined through ICANN’s policy processes, including the outcomes of the ongoing IGO Work Track (now an EPDP team). To the extent that these outcomes are the product of community consensus and approved by the GNSO Council, the Board will consider them in accordance with the Bylaws to ensure that the Board’s action on such recommendations are in the best interests of ICANN and the ICANN community.</p> <p><u>Other Impacts:</u></p> <p>The Board wishes to note that its decision whether to maintain the moratorium, as the GAC requests, is likely to be informed by the GAC’s ability to address the question pending before the GAC as to how the GAC proposes to manage additions, removals and other</p> |

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| | | | <p>proposed changes to the list. This includes the handling of requests such as the outstanding request from the African Union (AU) to have the acronym corresponding to the African Union removed from the list.</p> <p>In addition, the Board remains of the view that protections for IGO names and acronyms cannot result in a broader scope of protection than is available under international treaties and national laws, including intellectual property laws (see https://www.icann.org/en/system/files/correspondence/botterman-to-ismail-23feb21-en.pdf.)</p> <p>In setting up protective mechanisms for trademark owners in the last gTLD expansion round, ICANN worked with intellectual property experts and various community stakeholders to enable trademark holders to protect their legal rights. For example, the Trademark Clearinghouse mechanism functions by authenticating trademark information from rights holders and providing this information to registries and registrars that in turn support access to Sunrise registrations with new gTLD registries and notification from the Clearinghouse when a domain matching a validated trademark has been registered.</p> <p>One of the key principles in setting up the Trademark Clearinghouse was to protect existing legal rights without expanding protections beyond those conferred by trademark law. This is in line with the GNSO’s policy recommendations for the last expansion round that gTLD strings “<i>must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.</i>” As such, the Board believes that it will be helpful if the GAC can confirm that the list of protected IGOs does not conflict with any treaty or national legislation protecting intellectual property rights, such that the potential creation of an ICANN policy to protect acronyms corresponding to protected IGO names in gTLDs will not affect the ability to comply with national legislation or international agreements on intellectual property protection.</p> |

GAC ICANN71 Virtual Policy Forum Communiqué: Actions and Updates (12 September 2021)

| GAC Follow-up on Previous Advice Item | Advice Text | Board Understanding Following Board-GAC Call | Board Response |
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| <p>1. CCT Review Recommendations</p> | <p>The GAC wishes to recall its ICANN66 Montreal Consensus Advice on CCT Review and Subsequent Rounds of New gTLDs (section V. 1. a), and in light of the constructive discussions which took place with the Board, and the wider ICANN Community at ICANN71, as well as the GAC follow-up advice from ICANN70 (namely in paragraph 1. of Section VI) and considering the Board Scorecard thereon (dated 12th May 2021)⁸, draws the attention of the Board to the related suggestions referred to under section “Issues of Importance to the GAC” of this Communiqué.</p> | <p>The Board understands that there remain pending GAC Advice items that relate both to the CCT Recommendations and to the future of the New gTLD Subsequent Procedures round. The Board also understands that the GAC has expressed difficulty understanding the status of the community work where certain CCT Recommendations were communicated to community groups relevant to the recommendations.</p> | <p>Per its resolution of 01 March 2019, regarding the Competition, Consumer Trust and Consumer Choice (CCT) Final Report and Recommendations, the Board noted fourteen recommendations (9, 10, 12, 16, 19, 20, 25, 27, 28, 29, 32, 33, 34, 35) that were neither accepted nor rejected, but communicated, in whole or in part, to the community groups identified in the CCT Final Report for their consideration. Below is an overview to summarize the developments in these recommendations.</p> <p>In its actions on these recommendations, the Board neither accepted, nor rejected the recommendations, as such recommendations related to matters that can only be addressed through community action, notably as the Board does not direct policy work. In practice, this means that the Board, through its decision, stated that consideration of these recommendations is to be made by the community and any potential action initiated by community organizations. For each of these recommendations, while the Board or ICANN org was among the identified groups to which the CCT Review Team directed the recommendation, the Board was careful to respect the remit and roles of the different part of the ICANN community and did not direct ICANN org action that would usurp another group's remit. Therefore, once the Board has taken action of offering the recommendations for community consideration, no further action is to be taken on these recommendations which are considered completed and closed.</p> <p>The Board noted in its rationale accompanying its action on the CCT Final Report:</p> <p><i>“Passing recommendations through to community groups is not a directive that the groups identified should formally address any of the issues within those recommendations. It is within the purview of each group to identify whether work will be taken on and the topics that the group will address. For transparency, however, it would be helpful to have records or reporting made available to the ICANN community on how the community group considered the items coming out of the CCT-RT. The Board encourages any level of reporting that the groups are able to provide as the ICANN org and Board track action on the CCT-RT’s recommendations.”</i></p> <p>The Board thanks the GAC for its follow up on previous GAC advice concerning the CCT Review and subsequent rounds of New gTLDs. As the GAC noted in its 22 January 2020 response letter to the ICANN Board on issues of clarification of GAC Advice, the portions of GAC</p> |

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| | | | <p>Advice that were related to the “passed through” CCT Recommendations have neither been accepted nor rejected. As we have previously committed, the fact that these CCT Recommendations were passed through to the community does not alter the Board’s obligations to consider any advice from the GAC that impacts the Board’s consideration of the policy recommendations on Subsequent Procedures.</p> <p>The Board’s commitment on this issue was made most recently in May 2021 in a Scorecard responding to the ICANN70 GAC Communique.</p> <p>If the GAC has any remaining questions about topics addressed by recommendations in the CCT Final Report that were not included in the list of recommendations that the Board approved, the GAC may consider posing its own questions to the Board on these subjects (without reference to the CCT recommendations), and the Board stands ready to discuss further with the GAC.</p> <p>While the Board always welcomes and encourages any level of reporting that the groups are able to provide with regard to these recommendations, the Board would also encourage the GAC to continue to take advantage of the GNSO liaison to the GAC, who is primarily responsible for providing timely updates to the GAC on GNSO policy development activities in order to complement the existing notification processes as well answering questions in relation to these (GNSO) activities that GAC members may have.</p> <p>With regards to tracking and implementation of recommendations, as noted in its webinar on 2 June 2021, during the prep week session of ICANN71, ICANN org provided an update on the status of all reviews, including CCT, and noted that it is working to develop a robust and comprehensive reporting mechanism on the recommendations accepted by the Board. In addition, there is also a dedicated webpage on ICANN.org that provides latest information on the status of the CCT Recommendations accepted by the Board: https://www.icann.org/resources/reviews/specific-reviews/cct</p> <p>As the Board noted in its resolution of May 2021 in a Scorecard, responding to the ICANN71 GAC Communique:</p> <ul style="list-style-type: none"> • The Board understands that ICANN org is continuing with preparatory implementation planning for #5 along with other data collection recommendations. • For #14 & #15, the Board had directed ICANN org to facilitate community efforts to develop a definition of “abuse” to inform further action on this recommendation. The Board has continued to follow the community’s discussions on this and |

| GAC Follow-up on Previous Advice Item | Advice Text | Board Understanding Following Board-GAC Call | Board Response |
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| | | | <p>other aspects of DNS abuse mitigation, including the recommendations from the SSR2 Review Team and the recently issued advice from the SSAC.</p> <ul style="list-style-type: none"> • The Board understands that ICANN org has since completed implementation of #17 and that implementation is in progress for the other accepted recommendations as feasible with existing resources and budget. For those which require additional resourcing to implement, these will be subject to the prioritization and planning process under development for the community to consider the numerous recommendations from review teams and other efforts such as Work Stream 2, and how to organize and resource the work. • #9 and #12 were communicated to the GNSO as they concern gTLD policy development within the GNSO's remit. The Board has received the GNSO Council's Recommendations Report on RPMs and SubPro and will consider the final report and recommendations. |
| <p>2. EPDP Phase 1 Policy Implementation</p> | <p>The GAC notes its previous advice within the ICANN66 Montréal Communiqué and the ICANN70 Communiqué with regard to Phase 1 of the EPDP on gTLD Registration Data and the request for "a detailed work plan identifying an updated realistic schedule to complete its work." The GAC observes with continued concern that the Phase 1 Implementation Review Team (IRT) lacks a current published implementation timeline.</p> | <p>The Board understands that the GAC is requesting a detailed work plan identifying an updated realistic schedule to complete its work, and is concerned that the current Implementation Review Team lacks a current schedule.</p> | <p>The Board appreciates the GAC's continued interest and support for the Phase 1 implementation work in the community. The IRT is only one element of the Phase 1 implementation work, which also includes data protection agreement negotiations, completion of studies and reports, and developing the required updates to other impacted policies and procedures. Based on the GAC's ICANN70 communique, the org is investigating possible reporting mechanisms to show more detailed status and timing for the different areas of implementation work.</p> |
| <p>3. Privacy Proxy Services Accreditation Implementation</p> | <p>The GAC previously advised the ICANN Board regarding the need to resume implementation (e.g., in the ICANN65 Marrakech and ICANN66 Montréal Communiqués) in light of the importance of implementing procedures that govern these services. The GAC notes the ongoing work between ICANN and the GNSO on restarting this work and highlights the need to prioritize this implementation.</p> | <p>The Board understands that the GAC supports resuming the implementation of the 2015 policy recommendations, which was paused in light of the Expedited Policy Development Process (EPDP) on the Temporary Specification.</p> | <p>As part of the Expedited Policy Development Process (EPDP) Phase 1 implementation, ICANN org and the IRT reviewed the potential impacts of the Phase 1 recommendations on other existing policies and procedures. This effort included analysis of the impact on the 2015 Privacy Proxy Services Accreditation Issues (PPSAI) policy recommendations, which was shared with the GNSO Council following review by the Phase 1 Implementation Review Team (IRT). The GNSO Council provided a letter to the org on this topic on 7 July, to be considered.</p> |

ICANN BOARD SUBMISSION No. 2021.09.12.1d

TITLE: Los Angeles Office Lease Period
PROPOSED ACTION: For Board Consideration and Approval

EXECUTIVE SUMMARY:

Through this resolution, the Board is being asked to approve a minor correction found in the [Los Angeles Office Lease Renewal](#) resolution and rationale passed by the Board on 22 July 2021. Specifically, this Board Resolution contained a minor discrepancy in that it refers to a new 10-year lease term for ICANN's current Los Angeles office location. However, the lease period is actually 129 months (10 years and nine months). The average monthly costs referenced in the Board paper, and the total amount over the entire term of the lease that was presented to the Board, reflect the 129-month lease period and are still accurate.

The remainder of the [Los Angeles Office Lease Renewal](#) resolution and rationale passed on 22 July 2021 should remain in full force and effect.

ICANN ORGANIZATION RECOMMENDATION:

ICANN organization recommends that the Board authorize the President and CEO, or his designee(s), to take all necessary actions to correct the term of lease from 10 years to 129 months, as applicable, as referenced in the [Los Angeles Office Lease Renewal](#) resolution and rationale.

PROPOSED RESOLUTION:

Whereas, the Board resolution passed on 22 July 2012 approving the [Los Angeles Office Lease Renewal](#), contained a minor discrepancy in that it referred to a 10-year lease term, but the lease term is 129 months (10 years and nine months).

Whereas, ICANN organization has recommended that the Board authorize the President and CEO, or his designee(s), to take all necessary actions to correct the term of lease from 10 years to 129 months as referenced in the [Los Angeles Office Lease Renewal](#) resolution and rationale.

Resolved (2021.09.12.xx) the Board authorizes the President and CEO to take all necessary actions to change references in the [Los Angeles Office Lease Renewal](#) resolution and rationale about the term of lease from 10 years to 129 months (10 years and nine months).

Resolved (2021.09.12.xx), the remainder of the [Los Angeles Office Lease Renewal](#) resolution and rationale not referencing the term of the lease shall remain in full force and effect, including the Board's approval to enter into the new lease as set for in the [Los Angeles Office Lease Renewal](#) Board resolution.

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| Submitted by: | Xavier Calvez |
| Position: | SVP, Planning and CFO |
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