

**MOTION TO RECOMMEND TO THE BOARD A SOLUTION TO PROTECT CERTAIN RED CROSS/RED CRESCENT (RCRC) AND INTERNATIONAL OLYMPIC COMMITTEE (IOC) NAMES AT THE TOP LEVEL IN NEW GTLDS**

Whereas, the Board Resolution 2011.06.20.01, authorized "the President and CEO to implement the new gTLD program which includes . . . incorporation of text concerning protection for specific requested Red Cross and IOC names for the top level only during the initial application round, until the GNSO and GAC develop policy advice based on the global public interest, . . ."

(<http://www.icann.org/en/groups/board/documents/resolutions-20jun11-en.htm>)

Whereas, the IOC/RC Drafting Team established by the GNSO Council has considered a number of different options with respect to protections of both the IOC and the RCRC terms at the top level and has proposed a solution to modify the ICANN staff's implementation of the Board Resolution as reflected in the Applicant Guidebook dated January 12, 2012 <LINK>;

Whereas, the IOC/RC Drafting Team has collaborated with the Government Advisory Committee (GAC) during its deliberations in an attempt to identify a solution that addresses GAC concerns;

Whereas, this proposed solution was posted for public comment on 2 March 2012 on an expedited basis as a matter of urgency in order to enable the Board to consider its adoption for the first round of new gTLD applications, which is scheduled to close on 12 April 2012;

Whereas, the GNSO is mindful that implementation of the Board's resolution is needed to be available before the end of the Application Window;  
Whereas, the GNSO intends that these recommendations be solely limited to the IOC and RCRC;

Whereas, the GNSO recognizes that there might be a policy impact of the protection for the IOC/RCRC for future rounds and at the second level; and

Whereas, therefore, the IOC/RC Drafting Team recommends that the GNSO Council adopt this proposed solution as a recommendation for Board consideration and adoption at its meeting in Costa Rica for the application period for the first round of new gTLD applications'.

NOW THEREFORE, BE IT:

Resolved, that the GNSO Council adopts the IOC/RC Drafting Team's three recommendations as described in its Proposal for the protection of IOC and RCRC names at the top level as provided in <http://gns0.icann.org/issues/ioc-rcrc-proposal-02mar12-en.pdf>; namely:

*Recommendation 1: Treat the terms set forth in Section 2.2.1.2.3 as “Modified Reserved Names,” meaning:*

- a) *The Modified Reserved Names are available as gTLD strings to the International Olympic Committee (hereafter the “IOC”), International Red Cross and Red Crescent Movement (hereafter “RCRC”) and their respective components, as applicable.*
- b) *Applied-for gTLD strings, other than those applied for by the IOC or RCRC, are reviewed during the String Similarity review to determine whether they are similar to these Modified Reserved Names. An application for a gTLD string that is identified as confusingly similar to a Modified Reserved Name will not pass this initial review.*
- c) *If an application fails to pass initial string similarity review:*
  1. *i. And the applied-for TLD identically matches any of the Modified Reserved Names (e.g., “.Olympic” or “.RedCross”), it cannot be registered by anyone other than the IOC or the RCRC, as applicable.*
  1. *ii. If the applied-for TLD is not identical to any of the Modified Reserved Names, but fails initial string similarity review with one of Modified Reserved Names, the applicant may attempt to override the string similarity failure by:*
    1. *1. Seeking a letter of non-objection from the IOC or the RCRC, as applicable; or*
    1. *2. If it cannot obtain a letter of non-objection, the applicant must:*
      1. *a. claim to have a legitimate interest in the string, and demonstrate the basis for this claim; and*
      2. *b. explain why it believes that the new TLD is not confusingly similar to one of the protected strings and makes evident that it does not refer to the IOC, RCRC or any Olympic or Red Cross Red Crescent activity.*
  1. *3. A determination in favor of the applicant under the above provision (ii)(2) above would not preclude the IOC, RCRC or other interested parties from bringing a legal rights objection or otherwise contesting the determination.*
  1. *4. The existence of a TLD that has received a letter of non-objection by the IOC or RCRC pursuant to (ii)(1), or has been approved pursuant to (ii)(2) shall not preclude the IOC or RCRC from obtaining one of the applicable Modified Reserved Names in any round of new gTLD applications.*

*Recommendation 2: Protect the IOC/RCRC Terms in as many Languages as Feasible*

*The GAC has proposed that the IOC and RCRC “names should be protected in multiple languages---all translations of the listed names in languages used on the Internet...The lists of protected names that the IOC and RC/RC have provided are illustrative and representative, not exhaustive.” The Drafting Team recommends that at the top level for this initial round, the list of languages currently provided in Section 2.2.1.2.3 of the Applicant Guidebook are sufficient.*

*In addition, the Drafting Team also notes that even in the unlikely event that a third party applies for an IOC or RCRC term in a language that was not contained on the list, the IOC or RCRC, as applicable, may still file an applicable objection as set forth in the Applicant Guidebook.*

*Recommendation 3: Protections should apply for all future rounds, but may be reviewed after the first round.*

*In its proposal, the GAC has recommended that the protections for the IOC and RCRC should not just apply during the first round of new gTLDs, but should be a permanent protection afforded for all subsequent rounds. Although, the Drafting Team has not spent a lot of time discussing this topic, it does agree with the notion that it is making this recommendation as one intended to apply in all future rounds, but also recognizes that permanently granting protection to the IOC and RCRC may have policy implications that require more work and consultation so that protections may be reviewed.*

Resolved, that the GNSO submits this proposed solution for Board consideration and adoption at its 16 March 2012 meeting in Costa Rica as a recommended solution to implement Board Resolution 2011.06.20.01 for implementation in the first round of new gTLD applications.