Draft letter from RySG to CTN-CWG
To: lars.hoffmann@icann.org
Attn:
Heather Forrest, GNSO (Co-Chair)
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Annebeth Lange, ccNSO (Co-Chair)
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Dear Co-Chairs of the CWG-UCTN

On behalf of the Registry Stakeholder Group (RySG), we would like to thank you for the work of the CWG-UCTN on this extremely important topic, and for the opportunity to provide our feedback on the question of three-character TLD strings.

The RySG hereby provides responses to the series of questions that you posed in your email of 9 September 2015.

1. In future, should all three-character top-level domains be reserved as ccTLDs only and be ineligible for use as gTLDs? What would be the advantage or disadvantage of such a policy?

> No. There is no basis under international law for all 3-character codes to be reserved for use only as ccTLDs and ineligible as gTLDs. Countries and country-code operators have no valid claim to sovereignty or ownership rights over 3-character codes.

> Whilst the RFC-1591 *Domain Name System Structure and Delegation* of March 1994 is considered by some to provide a basis and historical justification for the continued reservation of 2-character codes for use as ccTLDs, it provides no such basis for reserving 3-character codes.

> Furthermore, we understand that it has been suggested by some that to allow 3-character codes to be used as gTLDs gives rise to a risk of confusion with the ccTLDs. This argument is unsupportable. There is no precedent for 3-character codes to be reserved as ccTLDs and ineligible for use as gTLDs. Quite the reverse, in fact.

> The RFC-1591 identified seven 3-letter gTLDs, and thus from at least as early as 1984 users of the internet have learned to recognise 3-character codes as such, and not as ccTLDs. Since that time, and particularly now as a result of the first round of new gTLDs, there are numerous examples of 3-character strings which have already been allocated as gTLDs. These include those legacy gTLDs including .com, .net, .org, and new gTLDs, including .app, .bbc, .bio, .cab, .cfd, .fox, .nyc, .rio. Whilst the numbers of three-character strings already allocated are too numerous to list in full, it can be seen from this small snapshot that they include a range of gTLD types: brands, cities, open restricted, and open generic registries. If confusion were to occur, it would be by reserving 3-character codes for use as ccTLDs, when the public recognise these strings as being gTLDs, and ccTLDs as being 2-letter codes.

2. In future, should all three-character top-level domains be eligible for use as gTLDs as long as they are not in conflict with the existing alpha-3 codes from the ISO 3166-1 list; i.e. the three-character version of the same ISO list that is the basis for current ccTLD allocation? What would be the advantage or disadvantage of such a policy?

    > We refer to our response to question 1. All 3-character codes should be eligible for use as gTLDs, regardless of whether they are listed as alpha-3 codes from the ISO 3166-1 list. It should be noted that "COM" is included on that list and thus there is precedent for such 3-letter codes to be allocated as gTLDs. It would only be acceptable to reserve alpha-3 codes where the use of these codes is restricted as a matter of international law. This is not the case: the ISO 3166 list is simply a standard and has no basis in international intellectual property or otherwise as establishing or confirming ownership rights or in prohibiting use.

3. In future, should three-character strings be eligible for use as gTLDs if they are not in conflict with existing alpha-3 codes form the ISO 3166-1 list and they have received documentation of support or non-objection from the relevant government or public authority? What would be the advantage or disadvantage of such a policy?

    > No. See responses for questions 1 and 2. Governments and public bodies have no sovereignty over these terms and should not be seeking to have control or veto over their use.

4. In future, should there be unrestricted use of three-character strings as gTLDs if they are not conflicting with any applicable string similarity rules? What would be the advantage or disadvantage of such a policy?

    > Yes, we consider that this would be the most appropriate approach for the future, except in cases where international law, or some other agreed-upon restriction (such as that on the use of "www") dictates otherwise. This would have the advantages of removing a restriction which lacks any basis in international law and making such strings available for registration by any applicant in a new gTLD round.

5. In future, should all IDN three-character strings be reserved exclusively as ccTLDs and be ineligible as IDN gTLDs? What would be the advantage or disadvantage of such a policy?

    > No. For the same reasons as given above, such 3-character strings should only be unavailable for use as IDN gTLDs where this is a matter of international law [or there is a GNSO policy restricting the use of such strings]. Since such 3-character gTLDs already exist, imposing such a restriction now might even result in consumer confusion.

6. In future, should there be unrestricted use of IDN three-character strings if they are not in conflict with existing TLDs or any applicable string similarity rules? What would be the advantage or disadvantage of such a policy?

    > Yes. This would provide greater choice of available strings, encouraging the expansion of IDN gTLDs.

7. Do you have any additional comments that may help the CWG-UCTN in its discussion on three-character strings as top-level domains?

> Any restrictions on the availability of such strings for use should be based on international law and not local laws, and the burden should be placed on those advocating for these restrictions to demonstrate this. In any case where there is such a basis in international law, then what is adopted should be the least restrictive means to satisfy that legal requirement, developed as a result of a full policy development process.