

20131120-2

## Motion on Recommendations for IGO-INGO Protections

### WHEREAS:

1. At the ICANN meeting in Singapore on 28 June 2011, the ICANN Board passed a **Resolution** authorizing the President and CEO to implement the New gTLD program and directing that the Applicant Guidebook (AGB) be amended to incorporate text concerning protection of specific names requested by the International Committee of the Red Cross, the International Federation of the Red Cross and Red Crescent Societies, and the American Red Cross (collectively, the RCRC) and the International Olympic Committee (IOC) for the top level only during the initial application round, until the Generic Names Supporting Organization (GNSO) and the Governmental Advisory Committee (GAC) develop policy advice based on the global public interest;
2. On 14 September 2011 the GAC sent a **Proposal** to the GNSO Council recommending that certain RCRC and IOC names also be protected at the second level in a number of specific languages, which proposal was intended to complement the ICANN Board's June 2011 resolution, and which acknowledged the need for further work by the GAC and the GNSO to develop permanent protections for these organizations at the top level;
3. At the ICANN meeting in Dakar in October 2011, the GNSO Council formed a **Drafting Team** to develop recommendations relating to both top and second level protections for RCRC and IOC names;
4. On 11 January 2012 ICANN staff published an **updated AGB** that prohibited the delegation of certain RCRC and IOC names at the top level during the first round of the New gTLD program;
5. On 26 March 2012 the GNSO Council **adopted** three of the Drafting Team's recommendations pertaining to protection of certain RCRC and IOC names at the top level;
6. On 12 April 2012 the ICANN Board, acting through its New gTLD Program Committee (NGPC), **acknowledged** receipt of the GNSO's recommendations but decided not to change the AGB then, giving the **Rationale** that the public interest would be better served at that time by maintaining the status quo of a temporary moratorium;
7. At the ICANN meeting in Prague in June 2012, the GAC **Communique** requested that the ICANN Board provide the GAC with "further clarification as to the status of its pending request for enhanced protections [for RCRC and IOC names] at the top and second levels";
8. On 13 September 2012 the NGPC passed a **Resolution** requesting that the GNSO continue its work on second level protections of RCRC and IOC names and, if this were not concluded by 31 January 2013, that the GNSO advise the ICANN Board if there was any reason not to provide second level protections for those RCRC and IOC names already protected in the AGB at the top level, in light of all gTLDs approved in this first round of the New gTLD program;
9. On 13 December 2011 legal counsel from twenty-eight International Governmental Organizations (IGOs) sent a **letter** to the ICANN CEO and Board Chair, requesting that their organizations' names and acronyms be excluded from third-party registration at both the top and second levels in the first round of the New gTLD program and until further policy could be developed for future rounds; in May 2012, these organizations published a **Common Position Paper** outlining the possible bases for their requested protections;
10. On 11 March 2012 the ICANN Board **requested** that the GAC and the GNSO provide it with "policy advice on the IGOs' request ... [to] inform ICANN in providing a meaningful response to the IGOs";
11. On 12 April 2012 the GNSO Council **requested** an Issue Report as a preceding step to a possible Policy Development Process (PDP) to determine the type of international organization that should receive special protection at the top and second levels (if any), as well as the policies that should govern such protections;
12. On 1 October 2012 the **Final Issue Report** recommended that the GNSO initiate a PDP to determine, first, whether additional special protections were needed at the top and second levels for the names and/or acronyms of certain international organizations, namely IGOs and International Non-Governmental Organizations (INGOs) - including consideration of further protections of RCRC and IOC names - and if so, to develop policy proposals for such protections; and secondly, to include within the PDP an evaluation of whether such policies should also extend to existing gTLDs;
13. On 17 October 2012 the GNSO Council passed a **Resolution** launching an expedited PDP (which would become the IGO-INGO PDP) to address the issues described in the Final Issue Report;
14. On 26 November 2012 the NGPC passed a **Resolution** requesting that the GNSO continue its work on top and second level protections for IGOs and INGOs and, if this work were not concluded by 28 February 2013, that the GNSO advise the Board of any reason it should consider in including IGO names and acronyms that satisfy certain specific criteria on a Reserved Names List applicable to all new gTLD registries approved in the first round of the New gTLD program;

15. On 20 December 2012 the GNSO Council **adopted** a further set of three of the Drafting Team's recommendations pertaining to protection of certain RCRC and IOC names at the second level, pending the outcome of the recently-launched PDP, and **communicated** these decisions to the GAC;
16. On 28 February 2013 the GNSO Council Chair sent a **letter** to the NGPC Chair in response to the NGPC's November Resolution, indicating that the GNSO's PDP was addressing the issues raised by the NGPC;
17. On 22 March 2013 the GAC **requested** that the ICANN Board provide second level protections of names and acronyms of certain IGOs according to specific criteria;
18. On 14 June 2013 the IGO-INGO PDP Working Group published its draft **Initial Report** for public comment;
19. At the ICANN meeting in Durban in July 2013 the GAC through its **Communique** further refined its 22 March 2013 request concerning second level protection for IGO acronyms
20. On 20 September 2013 the Working Group published its draft **Final Report** for public comment, incorporating feedback received in response to its draft Initial Report;
21. On 10 November 2013 the Working Group published its **Final Report** and sent it to the GNSO Council, incorporating feedback received in response to its draft Final Report;
22. The Working Group's Final Report includes supplemental documentation in the form of Minority Statements from various Working Group members and their respective constituencies, including IGOs and INGOs who may be affected by the recommendations under consideration (<http://gnso.icann.org/en/group-activities/active/igo-ingo>).

#### RESOLVED:

1. The GNSO Council thanks the Working Group for its hard work and for its thorough report, which includes multiple recommendations pertaining to the RCRC, IOC, IGOs and INGOs, and notes the inclusion of the supplemental documentation in the form of the various Minority Statements submitted;
2. The GNSO Council adopts in full the following Consensus recommendations made by the Working Group (including the definitions of Scope 1 and Scope 2 identifiers for all the various types of organizations considered) and recommends their adoption by the ICANN Board:
  - A. *In relation to the RCRC:*
    - **Top Level, Exact Match, Full Name Scope 1** identifiers of the RCRC (as defined in the Final Report to refer to designations of the RCRC emblems protected under the 1949 Geneva Conventions and their Additional Protocols) are to be considered "Strings Ineligible for Delegation" for future rounds of the New gTLD Program, and an exception procedure shall be designed which will allow an RCRC organization with a name protected as a "String Ineligible for Delegation" to apply for its protected string at the top level;
    - **Second Level, Exact Match, Full Name Scope 1** identifiers of the RCRC (as defined in the Final Report to refer to designations of the RCRC emblems protected under the 1949 Geneva Conventions and their Additional Protocols) are to be withheld from registration, and an exception procedure designed that will allow an RCRC organization with a name withheld from registration to register its protected name at the second level. For the current round of New gTLDs, the names subject to this recommendation shall be placed on the Reserved Names List in Specification 5 of the New gTLD Agreement, replacing any names currently listed in Specification 5. For future rounds, the names subject to this recommendation shall be placed on the Reserved Names List associated with each new Registry Agreement.
    - **Second Level, Exact Match, Full Name and Acronym Scope 2** identifiers of the RCRC (as defined in the Final Report) are to be subject to any notification services afforded to rights holders during the launch of a new gTLD. For the current round, the names and acronyms subject to this recommendation are to be added to the Trademark Clearinghouse (TMCH), and the related organizations permitted to participate in the 90-day claims notification process developed for the New gTLD Program.
  - B. *In relation to the IOC:*
    - **Top Level, Exact Match, Full Name Scope 1** identifiers of the IOC (as defined in the Final Report) are to be considered "Strings Ineligible for Delegation" for future rounds of the New gTLD Program, and an exception procedure shall be designed which will allow an IOC organization with a name protected as a "String Ineligible for Delegation" to apply for its protected string at the top level;
    - **Second Level, Exact Match, Full Name Scope 1** identifiers of the IOC (as defined in the Final Report) are to be withheld from registration, and an exception procedure designed that will allow an IOC organization with a name withheld from registration to register its protected name at the second level. For the current round of New gTLDs, the names subject to this recommendation shall be placed on the Reserved Names List in Specification 5 of the New gTLD Registry Agreement, replacing any names currently listed in Specification 5. For future rounds, the names subject to this recommendation shall be placed on the Reserved Names List associated with each new Registry Agreement.
  - C. *In relation to IGOs:*

- **Top Level, Exact Match, Full Name Scope 1** identifiers of the specified IGOs (as defined in the Final Report) are to be considered "Strings Ineligible for Delegation" for future rounds of the New gTLD Program, and an exception procedure shall be designed that will allow the specified IGO with a name protected as a "String Ineligible for Delegation" to apply for its protected string at the top level;
  - **Second Level, Exact Match, Full Name Scope 1** identifiers of the specified IGOs (as defined in the Final Report) are to be withheld from registration, and an exception procedure designed that will allow a specified IGO with a name withheld from registration to register its protected name at the second level. For the current round of New gTLDs, the names subject to this recommendation shall be placed on the Reserved Names List in Specification 5 of the New gTLD Registry Agreement. For future rounds, the names subject to this recommendation shall be placed on the Reserved Names List associated with each new Registry Agreement.
  - To the extent that in the current round **Second Level, Exact Match Scope 2** identifiers for the **Acronyms** of the specified **IGOs** (as defined in the Final Report) are to be added to the TMCH, and the related organizations permitted to participate in the 90-day claims notification process developed for the New gTLD Program, these identifiers will similarly be subject to any notification services afforded to rights holders during the launch of a new gTLD in future rounds.
- D. *In relation to INGOs:*
- **Top Level, Exact Match, Full Name Scope 1** identifiers of the specified INGOs (as defined in the Final Report) are to be considered "Strings Ineligible for Delegation" for future rounds of the New gTLD Program, and an exception procedure designed that will allow an INGO with a name protected as a "String Ineligible for Delegation" to apply for its protected name at the top level;
  - To the extent that **Second Level, Exact Match, Full Name Scope 1** identifiers of the specified INGOs (as defined in the Final Report) are to be withheld from registration, an exception procedure shall be designed that will allow a specified INGO with a name withheld from registration to register its protected name at the second level. For the current round of New gTLDs, the names subject to this recommendation, if approved, will be placed on the Reserved Names List in Specification 5 of the New gTLD Agreement. For future rounds, the names subject to this recommendation shall be placed on the Reserved Names List associated with each new Registry Agreement.
  - **Second Level, Exact Match, Full Name Scope 1** identifiers (unless otherwise protected) of protected INGOs and **Scope 2** identifiers of protected INGOs (all as defined in the Final Report) are to be subject to any notification services afforded to rights holders during the launch of a new gTLD. For the current round, the names subject to this recommendation are to be added to the TMCH, and the protected organizations permitted to participate in the 90-day claims notification process developed for the New gTLD program.
3. The GNSO Council adopts the following Consensus recommendations made by the Working Group that apply to all four categories of identifiers and recommends their adoption by the ICANN Board:
    - At the **Top Level, Acronyms** of the RCRC, IOC, IGOs and INGOs under consideration in this PDP shall not be considered as "Strings Ineligible for Delegation"; and
    - At the **Second level, Acronyms** of the RCRC, IOC, IGOs and INGO under consideration in this PDP shall not be withheld from registration. For the current round of New gTLDs, the temporary protections extended to the acronyms subject to this recommendation shall be removed from the Reserved Names List in Specification 5 of the New gTLD Registry Agreement.
  4. The GNSO Council notes that the Working Group recommends that the following Consensus recommendations also apply to existing gTLD registries, and accordingly the GNSO Council recommends their adoption by the ICANN Board:
    - Existing Registry Agreements shall accommodate recommended protections adopted for **Exact Match, Full Name Scope 1** identifiers of the **RCRC** at the **Second Level** (Section 3.1.3 and 3.1.4 of the Working Group's Final Report);
    - Existing Registry Agreements shall accommodate recommended protections adopted for **Exact Match, Full Name Scope 1** identifiers of the **IOC** at the **Second Level** (Section 3.2.3 and 3.2.4 of the Working Group's Final Report);
    - Existing Registry Agreements shall accommodate recommended protections adopted for **Exact Match, Full Name Scope 1** identifiers of **IGOs** at the **Second Level** (Section 3.3.3 and 3.3.4 of the Working Group's Final Report); and
    - To the extent that **Exact Match, Full Name Scope 1** identifiers of **INGOs** are withheld from registration at the **Second Level** (meaning that in the current round they are placed in Specification 5 of the New gTLD Registry Agreement), existing Registry Agreements shall accommodate recommendations adopted for an exception procedure (Section 3.4.3 of the Working Group's Final Report) that will allow an INGO with a name withheld from registration to apply for its protected name at the second level.
  5. The GNSO Council requests an Issue Report (<http://gns0.icann.org/en/drafts/issue-template-request-form-18nov13-en.pdf>) on the Working Group's Consensus recommendation 3.5.3, which states: "The [Working

Group] recommends that the respective policies are amended so that curative rights of the UDRP and URS can be used by those organizations that are granted protections based on their identified designations." This Issue Report is anticipated as a preceding step toward the possibility of initiating a PDP on this issue, and the Issue Report shall also address how these matters can or cannot be incorporated into the forthcoming review of the UDRP;

6. The GNSO Council shall convene an IGO-INGO Implementation Review Team to assist ICANN staff in developing the implementation details relating to the recommendations adopted herein should they be approved by the ICANN Board, including the Principles of Implementation highlighted by the Working Group in Section 3.7 of its Final Report and any Exception Procedures to be developed. The Implementation Review Team will be tasked with evaluating the proposed implementation of the policy recommendations as approved by the ICANN Board and is expected to work with ICANN staff to ensure that the resultant implementation fulfills the intentions of the approved policy recommendations. If the Implementation Review Team identifies any potential modifications to the policy recommendations or any need for new policy recommendations, the Implementation Review Team shall refer these to the GNSO Council for its consideration and follow-up, as appropriate. Following adoption by the ICANN Board of the recommendations, the GNSO Secretariat is authorized to issue a call for volunteers for an IGO-INGO Implementation Review Team to the members of the IGO-INGO PDP Working Group.