

**ICANN NGPC PAPER NO. 2013.11.16.NGxx**

**Remaining Items From Beijing and Durban GAC Advice: Updates**

**12 November 2013**

GAC Register #	GAC Advice	Update
<b>Durban Communiqué</b>		
<p>1. [WINE and VIN] 2013-09-09-wine and vin (Letter from GAC Chair to ICANN Board re: .wine and .vin.)</p>	<p>The GAC advises the ICANN Board that the GAC has finalized its consideration of the strings .wine and .vin and further advises that the applications should proceed through the normal evaluation process.</p>	<p>The NGPC acknowledged receipt of the 9 September 2013 letter from Heather Dryden to Steve Crocker re: .wine and .vin.</p> <p>On 28 September 2013, the NGPC noted that it stood ready to hear from GAC members as to the nature of the differences in views expressed in the advice while the NGPC analyzed. The NGPC directed staff to prepare an analysis and recommendation for consideration at the NGPC meeting in Buenos Aires.</p> <p>ICANN will facilitate a dialogue between the applicant for .VIN and the affected non-governmental parties. The details and timing of the mediation will be established at a later date. ICANN will facilitate a similar dialogue for .WINE after resolution of the contention set. (Note: there are multiple applicants for .WINE)</p>
<p>2. [SPA] 2013-07-18 – gTLDStrings (Durban Communiqué §1.1.b.i.i.1)</p>	<p>The GAC Advises the Board to leave the following applications for further consideration and advises the ICANN Board not to proceed beyond initial evaluation until the agreements between the relevant parties are reached: .spa (application numbers: 1-1619-92115, 1-1309-81322, 1-1110-73648) [Note: Application numbers updated from original text of advice.]</p>	<p>At its 10 September 2013 meeting, the NGPC accepted this advice, and agreed to not enter into registry agreements with applicants for the identified strings, subject to the parties having reached agreement or the GAC issuing final advice prior to the close of the ICANN Public meeting in Buenos Aires.</p> <p>Staff will prepare a recommendation for the NGPC to be considered at a meeting after Buenos Aires. The recommendation will take into consideration any additional advice that the GAC may issue in Buenos Aires.</p>

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3. [YUN] 2013-07-18 – gTLDStrings (Durban Communiqué §1.1.b.i.i.2)	<p>The GAC Advises the Board to leave the following application for further consideration and advises the ICANN Board not to proceed beyond initial evaluation until the agreements between the relevant parties are reached: .yun (application numbers 1-1318-12524, 1-974-89210)</p> <p>[Note: Application numbers updated from original text of advice.]</p>	<p>At its 10 September 2013 meeting, the NGPC accepted this advice, and agreed to not enter into registry agreements with applicants for the identified strings, subject to the parties having reached agreement or the GAC issuing final advice prior to the close of the ICANN Public meeting in Buenos Aires.</p> <p>Staff will prepare a recommendation for the NGPC to be considered at a meeting after Buenos Aires. The recommendation will take into consideration any additional advice that the GAC may issue in Buenos Aires.</p>
4. [GUANGZHOU] 2013-07-18 –gTLDStrings (Durban Communiqué §1.1.b.i.i.3)	<p>The GAC Advises the Board to leave the following application for further consideration and advises the ICANN Board not to proceed beyond initial evaluation until the agreements between the relevant parties are reached: .guangzhou (IDN in Chinese - application number 1-1121-22691)</p>	<p>At its 10 September 2013 meeting, the NGPC accepted this advice, and agreed to not enter into registry agreements with applicants for the identified strings, subject to the parties having reached agreement or the GAC issuing final advice prior to the close of the ICANN Public meeting in Buenos Aires.</p> <p>Staff will prepare a recommendation for the NGPC to be considered at a meeting after Buenos Aires. The recommendation will take into consideration any additional advice that the GAC may issue in Buenos Aires.</p>
5. [SHENZHEN] 2013-07-18 – gTLDStrings (Durban Communiqué §1.1.b.i.i.4)	<p>The GAC Advises the Board to leave the following application for further consideration and advises the ICANN Board not to proceed beyond initial evaluation until the agreements between the relevant parties are reached: .shenzhen (IDN in Chinese - application number 1-1121-82863)</p>	<p>At its 10 September 2013 meeting, the NGPC accepted this advice, and agreed to not enter into registry agreements with applicants for the identified strings, subject to the parties having reached agreement or the GAC issuing final advice prior to the close of the ICANN Public meeting in Buenos Aires.</p> <p>Staff will prepare a recommendation for the NGPC to be considered at a meeting after Buenos Aires. The recommendation will take into consideration any additional advice that the GAC may issue in Buenos Aires.</p>

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<p>6. [AMAZON] 2013-07-18 – Obj- Amazon (Durban Communiqué §1.1.a.i.1)</p>	<p>The GAC Advises the ICANN Board that the GAC has reached consensus on GAC Objection Advice according to Module 3.1 part I of the Applicant Guidebook on the following application: .amazon (application number 1-1315-58086) and related IDNs in Japanese (application number 1-1318-83995) and Chinese (application number 1-1318-5591)</p>	<p>At its 28 September 2013 meeting, the NGPC directed staff to prepare additional analysis regarding the GAC advice and the issues raised by the applicant for NGPC consideration at a subsequent meeting.</p> <p>In Buenos Aires, staff will present a potential path forward for analyzing the GAC advice and the issues raised by the applicant.</p>
<p>7. [IGO PROTECTIONS ] 2013-07-18 -IGO Acronyms (Durban Communiqué §5.c.i)</p>	<p>The GAC advises the ICANN Board that the GAC is interested to work with the IGOs and the NGPC on a complementary cost-neutral mechanism that would:</p> <p>(a) provide notification to an IGO if a potential registrant seeks to register a domain name matching the acronym of an IGO at the second level, giving the IGO a reasonable opportunity to express concerns, if any; and (b) allow for an independent third party to review any such registration request, in the event of a disagreement between an IGO and potential registrant.</p>	<p>On 2 October 2013, the NGPC proposal in response to the GAC's advice in the Durban Communiqué regarding protections for IGO acronyms was submitted to the GAC for its consideration.</p> <p>On 1 November 2013, the IGO Coalition expressed its reservations about the NGPC proposal, noting that the proposal “does not create a presumption of protection to IGO names and acronyms. Thus, the proposed mechanism is, at best, curative rather than preventive.” The IGO Coalition also noted concerns that the URS is an administratively flawed solution because it does not provide for a final binding determination, is subject to appeal (with added costs), and does not acknowledge the special status of IGOs, as it provides for the parties to agree that appeals may be made to “a court of competent jurisdiction,” which runs counter to IGO immunities.</p> <p>During the Buenos Aires meeting, the GNSO is considering the Final Report of the IGO/INGO Protection PDP Working Group. The Final Report recommends protecting names, but not acronyms of IGOs.</p> <p>Staff will prepare a recommendation for the NGPC to be considered after hearing any additional input from the community during the Buenos Aires meeting.</p>

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8. [IOC/RCRC PROTECTIONS ] 2013-07-18 -IOCRC (Communiqué §5.a.i(sic))	The GAC advises the ICANN Board that the same complementary cost neutral mechanisms to be worked out (as above in 4.c.i. (sic)) for the protection of acronyms of IGOs be used to also protect the acronyms of the International Committee of the Red Cross (ICRC/CICR) and the International Federation of Red Cross and Red Crescent Societies (IFRC/FICR).	Refer to the update above.
<b>Beijing Communiqué</b>		
9. [CAT 1 SAFEGUARDS] 2013-04-11- Safeguards – Categories -1 (Beijing Communiqué Annex I, Category 1)	<p>Strings that are linked to regulated or professional sectors should operate in a way that is consistent with applicable laws. These strings are likely to invoke a level of implied trust from consumers, and carry higher levels of risk associated with consumer harm.</p> <p>(Refer to the GAC Register of Advice for the full text of each Category 1 Safeguard.)</p>	<p>At its 2 July 2013 meeting, the NGPC adopted a <a href="#">resolution</a> to defer entering into registry agreements with applicants who have applied for TLD strings listed in the GAC’s Category 1 Safeguard Advice, pending a dialogue with the GAC. As noted by the community during the public comment period on the GAC’s safeguard advice, the GAC’s Category 1 Safeguard Advice presents some implementation concerns.</p> <p>On 29 October 2013, the NGPC notified the GAC that it is intending to accept the GAC’s Beijing Communiqué advice concerning Category 1 Safeguards, and presented documents that describe how ICANN intends to implement the advice. Staff will prepare a resolution for consideration by the NGPC to accept the Category 1 Safeguard advice.</p>

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<p>10. [CAT 2 SAFEGUARDS] 2013-04-11- Safeguards – Categories -2 (Beijing Communiqué Annex I, Category 2, Item 2)</p>	<p>For strings representing generic terms, exclusive registry access should serve a public interest goal. In the current round, the GAC has identified the following non-exhaustive list of strings that it considers to be generic terms, where the applicant is currently proposing to provide exclusive registry access: .antivirus, .app, .autoinsurance, .baby, .beauty, .blog, .book, .broker, .carinsurance, .cars, .cloud, .courses, .cpa, .cruise, .data, .dvr, .financialaid, .flowers, .food, .game, .grocery, .hair, .hotel, .hotels, .insurance, .jewelry, .mail, .makeup, .map, .mobile, .motorcycles, .movie, .music, .news, .phone, .salon, .search, .shop, .show, .skin, .song, .store, .tennis, .theater, .theatre, .tires, .tunes, .video, .watches, .weather, .yachts, .クラウド [cloud], .ストア [store], .セール [sale], .ファッション [fashion], .家電 [consumer electronics], .手表 [watches], .書籍 [book], .珠宝 [jewelry], .通販 [online shopping], .食品 [food]</p>	<p>ICANN contacted the 186 applicants for strings identified in the GAC’s Category 2 safeguard advice. The applicants were asked to respond by a specified date indicating whether the applied-for TLD will be operated as an exclusive access registry. An overwhelming majority of the applicants (174) indicated that the TLD would not be operated as an exclusive access registry. The NGPC recently adopted a resolution directing staff to move forward with the contracting process for applicants for strings identified in the Category 2 Safeguards that were prepared to enter into the Registry Agreement as approved, since moving forward with these applicants was consistent with the GAC’s advice.</p> <p>Ten applicants responded that the TLD would be operated as an exclusive access registry. These 10 applicants have applied for the following strings: .BROKER, .CRUISE, .DATA, .DVR, .GROCERY, .MOBILE, .PHONE, .STORE, .THEATER, .THEATRE and .TIRES. The NGPC directed staff to prepare an analysis and proposal to implement the Category 2 safeguard advice for these applicants. Staff requested the applicants to provide an explanation of how the proposed exclusive registry access serves a public interest goal. When available, the responses will be forwarded to the NGPC and the GAC for further consideration.</p> <p>A copy of the communication to the GAC is included in the reference materials.</p>

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<p>11. [AFRICA] 2013-04-11- Obj-Africa (Beijing Communiqué §1.a.i.1)</p>	<p>The GAC advises the ICANN Board that the GAC has reached consensus on GAC Objection Advice according to Module 3.1 part I of the Applicant Guidebook on the application for .africa (Application number 1-1165-42560)</p>	<p>The NGPC accepted this advice on 4 June 2013. At the NGPC's direction, staff advised the applicant, DotConnectAfrica Trust (DCA Trust), that its application for .africa would not be approved.</p> <p>On 19 June 2013, DCA Trust submitted a reconsideration request to the Board Governance Committee ("BGC") requesting that the NGPC's 4 June 2013 action regarding DCA Trust's New gTLD application be reconsidered. On 13 August 2013, the NGPC adopted the BGC's recommendation to deny the reconsideration request because DCA Trust did not state proper grounds for reconsideration.</p> <p><a href="http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-13aug13-en.htm#1.c">http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-13aug13-en.htm#1.c</a></p> <p>DCA Trust indicated that it plans to file an Independent Review Proceeding (IRP) in accordance with Article IV, section 3 of the ICANN Bylaws. Prior to initiating a request for independent review, complainants are urged to enter into a period of cooperative engagement with ICANN for the purpose of resolving or narrowing the issues that are contemplated to be brought to the IRP. DCA Trust and ICANN agreed to conclude the cooperative engagement with ICANN and DCA Trust requested an extension to file an IRP until November 30, 2013. (The deadline for filing, given the cooperative engagement period, was previously November 13, 2013). In the interest of transparency and fairness, ICANN has afforded a final extension to DCA Trust to file an IRP until November 30, 2013.</p>

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<p>12. [HALAL AND ISLAM] 2103-04-11- Religious Terms (Beijing Communiqué §1.a.ii)</p>	<p>The GAC advises the Board that with regard to Module 3.1 part II of the Applicant Guidebook, the GAC recognizes that religious terms are sensitive issues. Some GAC members have raised sensitivities on the applications that relate to Islamic terms, specifically .islam and .halal. The GAC members concerned have noted that the applications for .islam and .halal lack community involvement and support. It is the view of these GAC members that these applications should not proceed.</p>	<p>The NGPC adopted a resolution to accept this advice at its 4 June 2013 meeting. Pursuant to Section 3.1.ii of the AGB, the NGPC and some members of the GAC met during the ICANN 47 meeting in Durban to discuss the concerns about the applications.</p> <p>On 24 October 2013 decisions were posted in favor of the applicant on the community objections filed by the Telecommunications Regulatory Authority of the UAE.</p> <p>In a 4 November 2013 letter from the Organization of Islamic Cooperation (OIC) to the GAC Chair, the OIC stated that the “observation of the GAC members about the lack of community involvement and support was based on the absence of proper information.” The OIC stated that “the involvement and support of the OIC as the sole official representative of 1.6 billion Muslims are tantamount to the involvement and support of the World Muslim populations.” The letter states that the Foreign Ministers of 57 Muslim Member States of the OIC plan to adopt a resolution (scheduled 9th-11th December 2013) to “the effect of protecting and having a united stand towards the use of the new gTLDs with Islamic identity.” The OIC requested that its letter be considered an “official opposition of the Member States of the OIC towards probable authorization by the GAC allowing the use of [...] .ISLAM and .HALAL by any entity not representing the collective voice of the Muslim people.” The OIC noted that it would go into details in Buenos Aires.</p> <p>In a 11 November 2013 letter to the GAC Chair, the NGPC indicated that before it takes action on the strings, it will wait for any additional GAC input during the Buenos Aires meeting or resulting GAC Communiqué, and it stood ready to discuss this matter further if additional dialog would be helpful.</p>

## REFERENCE MATERIALS - NGPC PAPER NO. 2013.11.16.NGxx

**TITLE: GAC Advice in Beijing Communiqué regarding Category 1 Safeguards**

### Summary of “Policy Advisory Board Model”

In a letter dated 25 September 2013 to the NGPC, Ron Andruuff proposed a “Policy Advisory Board Model” as a mechanism by which he proposes that the GAC Category 1 Safeguards can be implemented <<http://www.icann.org/en/news/correspondence/andruuff-to-chalaby-25sep13-en.pdf>>.

Mr. Andruuff’s proposal would require the creation of policy advisory boards (“PABs”) to develop registrant eligibility criteria and registration policies for the sensitive strings listed in the Category 1 Safeguards. Mr. Andruuff suggests that the PABs would ensure that registrant eligibility policies are inclusive, transparent, pro-competitive and non-discriminatory, and serve the affected community and the general public, particularly Internet users of domain registrant services. Mr. Andruuff’s proposal claims that the PABs would operate to ensure the protection and promotion of the public interest is furthered via the operation of a regulated industry/profession TLD.

Under Policy Advisory Board Model, the registry operator’s role would be limited to technical management of the TLD and implementing the registration policies established by the PAB. The registry operator would not have a seat or a right to vote on the PAB, but would be required to pay all costs associated with establishing and operating the PAB.

As presented in Mr. Andruuff’s proposal, each PAB would be composed of 12 -18 representative members from the broad spectrum of affected parties, including, but not limited to, users, suppliers, distributors, regulators, and consumers of registrant services reflective of global diversity in its overall composition. The PAB for a TLD would establish the registration policies and would determine whether an applicant applying for a domain name met the established criteria for registration. Applicants who are rejected from registering domain names in the TLD would have a right to take their grievances to a neutral third party for resolution, with the costs to be paid by the registry operator.



The Policy Advisory Board Model was not included in the Category 1 Safeguards proposal transmitted to the GAC because it would require drastic changes to some fundamental elements of the New gTLD Program that have not been vetted by the community, including the role and authority of a registry operator to operate a TLD, ICANN's responsibility to oversee the operations of each TLD's PAB, and revisions to the form of New gTLD Registry Agreement approved by the NGPC. Additionally, there does not appear to be substantial support for the PAB Model from the GAC or the registries.

Although not included in the proposal to the GAC, the Policy Advisory Board Model remains as one option that a registry operator may choose to coordinate the registry operator's compliance with the safeguards.



## The Internet Corporation for Assigned Names and Numbers

29 October 2013

Heather Dryden  
Chair, Governmental Advisory Committee

Re: NGPC Consideration of GAC Category 1 and Category 2 Safeguard Advice

Dear Heather,

On behalf of the New gTLD Program Committee, I am pleased to inform you that the NGPC is intending to accept the GAC's Beijing Communiqué advice concerning Category 1 and Category 2 Safeguards. Attached please find documents that describe how ICANN intends to implement the advice. A summary of the implementation plans appears below.

### Category 1 Safeguards

The text of the Category 1 Safeguards have been modified as appropriate to meet the spirit and intent of the advice in a manner that allows the requirements to be implemented as public interest commitments in Specification 11 of the New gTLD Registry Agreement ("PIC Spec"). The PIC Spec and a rationale explaining the modifications are attached.

The implementation plan also distinguishes the list of TLD strings listed in the Category 1 safeguard advice between strings that the NGPC considers strings associated with market sectors or industries that have highly regulated entry requirements in multiple jurisdictions, and those that do not. The Category 1 Safeguards in the PIC Spec will apply to the TLD strings based on how the TLD string is categorized. The list of re-categorized Category 1 strings is attached.

### Category 2 Safeguards

ICANN contacted the 186 applicants for strings identified in the GAC's Category 2 safeguard advice. The applicants were asked to respond by a specified date indicating whether the applied-for TLD will be operated as an exclusive access registry. An overwhelming majority of the applicants (174) indicated that the TLD would not be operated as an exclusive access registry. The NGPC recently adopted a resolution directing staff to move forward with the contracting process for applicants for strings identified in the Category 2 Safeguards that were prepared to enter into the Registry Agreement as approved, since moving forward with these applicants was consistent with the GAC's advice.



Ten applicants responded that the TLD would be operated as an exclusive access registry. These 10 applicants have applied for the following strings: .BROKER, .CRUISE, .DATA, .DVR, .GROCERY, .MOBILE, .PHONE, .STORE, .THEATER, .THEATRE and .TIRES. The NGPC directed staff to prepare an analysis and proposal to implement the Category 2 safeguard advice for these applicants. Staff requested the applicants to provide an explanation of how the proposed exclusive registry access serves a public interest goal. When available, the responses will be forwarded to the NGPC and the GAC for further consideration.

I hope this information is helpful. I look forward to seeing you at the ICANN 48 Meeting in Buenos Aires.

Best regards,

A handwritten signature in black ink, appearing to read "Stephen D. Crocker", written in a cursive style.

Stephen D. Crocker  
Chair, ICANN Board of Directors

## **Category 1 Safeguards as Public Interest Commitments in Specification 11 of the New gTLD Registry Agreement**

1. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Registry operators will include a provision in their Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.
4. Registry operators will proactively create a clear pathway for the creation of a working relationship with the relevant regulatory or industry self-regulatory bodies by publicizing a point of contact and inviting such bodies to establish a channel of communication, including for the purpose of facilitating the development of a strategy to mitigate the risks of fraudulent and other illegal activities.
5. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring Registrants to provide administrative contact information, which must be kept up-to-date, for the notification of complaints or reports of registration abuse, as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business.
6. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring a representation that the Registrant possesses any necessary authorisations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string.
7. If a Registry Operator receives a complaint expressing doubt with regard to the authenticity of licenses or credentials, Registry Operators should consult with relevant national supervisory authorities, or their equivalents regarding the authenticity.
8. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision

requiring Registrants to report any material changes to the validity of the Registrants' authorisations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string in order to ensure they continue to conform to appropriate regulations and licensing requirements and generally conduct their activities in the interests of the consumers they serve.

9. Registry Operator will develop and publish registration policies to minimize the risk of cyber bullying and/or harassment.

## **GAC Category 1 Safeguard Advice Rationale for Changes to Safeguard Language in the PIC Spec**

The NGPC intends to adapt the language of the Category 1 safeguards to meet the spirit and intent of the GAC's Category 1 Safeguard Advice in a manner that allows the safeguards to be implemented as public interest commitments in Specification 11 of the New gTLD Registry Agreement (the "Category 1 PIC Spec").

### **Safeguards #1, #2 and #5**

Because registry operators and ICANN do not have contractual relationships with registrants, additional language was added to Safeguards #1, #2 and #5 to refer to Registry-Registrar Agreements and Registration Agreements to impose the obligation on registrants required in the safeguard advice.

### **Safeguard #3**

Safeguard #3 would require registrants to implement reasonable and appropriate security measures if the registrant collects and maintains sensitive health and financial data. The security measures should be commensurate with the offering of those services, as defined by applicable law and recognized industry standards. The NGPC notes that implementation would not be possible because it is not clear how "recognized industry standards" would be identified and applied in the context of hundreds of different sectors.

The language in the PIC Spec to address this safeguard was adapted to require that the security measures are commensurate with the offering of those services, as defined by applicable law.

### **Safeguard #4**

The NGPC notes that the safeguard raises contract enforcement questions (e.g., how are the relevant regulatory agencies and industry self-regulatory organizations identified; who determines which industry self-regulation organizations bodies are "relevant" to a particular string and which governmental body is the competent regulatory agency). Additionally, some regulatory bodies or industry self-regulatory bodies may not be responsive to collaboration with registry operators.

To address these concerns, the safeguard language in the PIC Spec was drafted in a way to avoid a situation where the registry operator would be in breach of the registry agreement if regulatory body won't agree to a relationship with the registry operator.

## **Safeguards #6, #7 and #8**

The implementation of safeguards #6-8 would change the nature of some new gTLDs from being open to uses that are not regulated into restricted TLDs open only to registrants that can prove their status or credentials. The NGPC also notes that implementation would potentially discriminate against users in developing nations whose governments do not have regulatory bodies or keep databases which a registry/registrar could work with to verify credentials, and would potentially discriminate against users in developed nations whose governments have developed different regulatory regimes.

The language in the Category 1 PIC Spec was modified to address these concerns. As an initial matter, the registrant would be required to make an attestation that the registrant possesses any necessary authorizations, charters, licenses and/or other related credentials for participation in the sector associated with the TLD string. The registrant is also required to report any material changes to the validity of their authorizations. This provision provides the registrant the opportunity to provide this information because it is better positioned to

If the registry operator receives complaints about the authenticity of the licenses or credentials, the registry operator is obligated to consult with the relevant national supervisory authorities, or their equivalents regarding the authenticity.

### GAC Category 1 Strings

<b>Regulated Sectors/Open Entry Requirements in Multiple Jurisdictions (Category 1 Safeguards 1-3 applicable)</b>	<b>Highly-regulated Sectors/Closed Entry Requirements in Multiple Jurisdictions (Category 1 Safeguards 1-8 applicable )</b>
<b>Children:</b> .kid, .kids, .kinder, .game, .games, .juegos, .play, .school, .schule, toys	
<b>Environmental:</b> .earth, .eco, .green, .bio, .organic	
<b>Health and Fitness:</b> .care, .diet, .fit, .fitness, .health, .heart, .hiv, .rehab, .clinic, .healthy (IDN Chinese equivalent), .dental, .physio, .healthcare, .med, .organic, .doctor	<b>Health and Fitness:</b> pharmacy, .surgery, .dentist, .dds, , .hospital, .medical
<b>Financial:</b> capital, .cash, .cashbackbonus, .broker, .brokers, .claims, .exchange, .finance, .financial, .forex, .fund, .investments, .lease, .loan, .loans, .market, .markets, .money, .pay, .payu, .retirement, .save, .trading, .credit, .insure, .netbank, .tax, .travelersinsurance, .financialaid, .vermogensberatung, .mortgage, .reit	<b>Financial:</b> .bank, .banque, .creditunion, .creditcard, .insurance, .ira, .lifeinsurance, .mutualfunds, .mutuelle, .vermogensberater, and .versicherung, .autoinsurance, .carinsurance
	<b>Gambling:</b> .bet, .bingo, .lotto, .poker, .spreadbetting, .casino
<b>Charity:</b> .care, .gives, .giving	<b>Charity:</b> .charity (and IDN Chinese equivalent)
<b>Education:</b> .degree, .mba	<b>Education:</b> .university
<b>Intellectual Property:</b> .audio, .book (and IDN equivalent), .broadway, .film, .game, .games, .juegos, .movie, .music, .software, .song, .tunes,	



<b>Regulated Sectors/Open Entry Requirements in Multiple Jurisdictions (Category 1 Safeguards 1-3 applicable)</b>	<b>Highly-regulated Sectors/Closed Entry Requirements in Multiple Jurisdictions (Category 1 Safeguards 1-8 applicable )</b>
.fashion (and IDN equivalent), .video, .app, .art, .author, .band, .beats, .cloud (and IDN equivalent), .data, .design, .digital, .download, .entertainment, .fan, .fans, .free, .gratis, .discount, .sale, .hiphop, .media, .news, .online, .pictures, .radio, .rip, .show, .theater, .theatre, .tour, .tours, .tvs, .video, .zip	
<b>Professional Services:</b> .accountant, .accountants, .architect, .associates, .broker, .brokers, .engineer, .legal, .realtor, .realty, .vet, .doctor, .engineering, .law	<b>Professional Services:</b> .abogado, .attorney, .cpa, .dentist, .dds, .lawyer.
<b>Corporate Identifiers:</b> .limited	<b>Corporate Identifiers:</b> .corp, .gmbh, .inc, .llc, .llp, .ltda, .ltd, .sarl, .srl, .sal
<b>Generic Geographic Terms:</b> .capital .town, .city	
.reise, .reisen .weather	

### Special Safeguards Required

<b>Inherently Governmental Functions:</b> .army, .navy, .airforce
<b>Potential for Cyber Bullying/Harassment:</b> .fail, .gripe, .sucks, .wtf

## **Category 1 Safeguards as Public Interest Commitments in Specification 11 of the New gTLD Registry Agreement**

1. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Registry operators will include a provision in their Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.
4. Registry operators will proactively create a clear pathway for the creation of a working relationship with the relevant regulatory or industry self-regulatory bodies by publicizing a point of contact and inviting such bodies to establish a channel of communication, including for the purpose of facilitating the development of a strategy to mitigate the risks of fraudulent and other illegal activities.
5. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring Registrants to provide administrative contact information, which must be kept up-to-date, for the notification of complaints or reports of registration abuse, as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business.
6. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring a representation that the Registrant possesses any necessary authorisations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string.
7. If a Registry Operator receives a complaint expressing doubt with regard to the authenticity of licenses or credentials, Registry Operators should consult with relevant national supervisory authorities, or their equivalents regarding the authenticity.

8. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring Registrants to report any material changes to the validity of the Registrants' authorisations, charters, licenses and/or other related credentials for participation in the sector associated with the Registry TLD string in order to ensure they continue to conform to appropriate regulations and licensing requirements and generally conduct their activities in the interests of the consumers they serve.
9. Registry Operator will develop and publish registration policies to minimize the risk of cyber bullying and/or harassment.



The Internet Corporation for Assigned Names and Numbers

2 October 2013

Heather Dryden  
Chair, Governmental Advisory Committee

Re: GAC advice on protections for IGO acronyms

Dear Heather,

In the Durban Communiqué, the GAC advised that it is interested to work with Intergovernmental Organizations and the New gTLD Program Committee on a complementary cost-neutral mechanism that would:

- a. provide notification to an IGO if a potential registrant seeks to register a domain name matching the acronym of an IGO at the second level, giving the IGO a reasonable opportunity to express concerns, if any; and
- b. allow for an independent third party to review any such registration request, in the event of a disagreement between an IGO and potential registrant.

Following our discussions in Durban, and in the spirit of collaboration, I am pleased to share with you the attached draft proposal for the GAC's consideration. We would be happy to answer any questions and look forward to receiving the GAC's input.

Best regards,

Stephen D. Crocker  
Chair, ICANN Board of Directors

## DRAFT Proposal for Protections for IGO Acronyms

2 October 2013

The following is a draft proposed approach for how ICANN could implement the Governmental Advisory Committee's (GAC's) advice in the Durban Communiqué regarding protections for IGO acronyms (the "IGO Proposal"). The GAC advised the ICANN Board that the GAC is interested to work with the IGOs and the NGPC on a complementary cost-neutral mechanism that would:

- (a) provide notification to an IGO if a potential registrant seeks to register a domain name matching the acronym of an IGO at the second level, giving the IGO a reasonable opportunity to express concerns, if any; and
- (b) allow for an independent third party to review any such registration request, in the event of a disagreement between an IGO and potential registrant.

This is a draft subject to further NGPC consideration and input from the GAC.

### 1. Claims Notification

The IGO Proposal would leverage the functionality of the current [Trademark Clearinghouse](#) ("TMCH" or "Clearinghouse") to address the GAC's advice.

ICANN would provide the Clearinghouse service provider a list of IGO acronyms to be included in the clearinghouse, which will consist of the acronyms provided on the GAC's ["IGO List dated 22/03/2013"](#) (the "Protected IGO Acronyms"). Note that trademark owners currently pay approximately 150 USD per year to include a name in the TMCH.

As part of the Trademark Claims service supported by the Clearinghouse, registry operators are required to provide both: (i) notices to potential domain name registrants that a domain name they are seeking to register in a new generic top level domain (new gTLD) matches a trademark record that has been verified by the Clearinghouse (a "Claims Notice"); and (ii) notices to trademark holders when domain names matching their Clearinghouse records are actually registered. The registry operator is obligated to provide these "claims service" notices for at least the first 90 calendar days of general registration in the new TLD (i.e. the claims period).

The proposed approach provides that during the claims period in any new gTLD, anyone attempting to register a domain name matching a Protected IGO Acronym that is recorded in the Clearinghouse would receive a notification alerting the registrant that the domain name matches at least one Protected IGO Acronym

submitted to the Clearinghouse. If the notified party moves forward and registers the domain name, the IGO would receive a notice from the Clearinghouse alerting the IGO that the domain name has been registered.

## 2. Dispute Resolution

The [Uniform Rapid Suspension System](#) (URS) is one of several new rights protection mechanisms available in the New gTLD Program. It complements the existing UDRP by offering a lower-cost, faster path to relief for rights holders experiencing the most clear-cut cases of infringement.

The IGO Proposal would leverage the functionality of the URS to provide a mechanism for IGOs with Protected IGO Acronyms in the TMCH to challenge a registration that has been registered and is being used in bad faith. Bad faith may be shown, for example, if the IGO can show that the registrant has intentionally attempted to attract for commercial gain, Internet users to registrant's web site or other on-line location, by creating a likelihood of confusion with the IGO's Protected IGO Acronym as to the source, sponsorship, affiliation, or endorsement of registrant's web site or location or of a product or service on that web site or location. Note that the current rules require complainants to submit a filing fee payable to the URS service provider, which is estimated to be approximately 375 USD – 500 USD.

The existing URS would be supplemented as appropriate to be relevant to the protections granted to the Protected IGO Acronyms, including for example, the examination standards and burdens of proof in Section 8 of the existing procedure for the URS.

## Message on behalf of the IGO Coalition

by the United Nations (UN), the European Organization for Nuclear Research (CERN), the European Space Agency (ESA), the International Labour Organization (ILO), the International Telecommunication Union (ITU), the International Criminal Police Organization (INTERPOL), Organization of American States (OAS), the Organisation for Economic Co-operation and Development (OECD), the International Criminal Court (ICC), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Universal Postal Union (UPU), the World Bank (WB), the World Health Organization (WHO), the World Intellectual Property Organization (WIPO), the World Meteorological Organization (WMO) and the World Trade Organization (WTO), as members of the Coalition and observers to the GAC

Dear members of the Governmental Advisory Committee,

We would like to respectfully express our reservations to and grave concerns with the ICANN Board's October 2<sup>nd</sup> proposal regarding IGO names and acronyms (the "Proposal").

A number of flaws in the Proposal make it untenable for the IGOs. We have enumerated these flaws in the note we have sent to the Chair of the GAC on October 7<sup>th</sup>, 2013 and would urge you to reconsider the ICANN Board's position, as these flaws present insurmountable obstacles to our support of the Proposal.

- First and foremost, the ICANN Board's Proposal does not create a presumption of protection to IGO names and acronyms. Thus, the proposed mechanism is, at best, curative rather than preventive.

- the URS is an administratively flawed solution as it does not provide for a final binding determination, is subject to appeal (with again added costs), and does not acknowledge the special status of IGOs, as it provides for the parties to agree that appeals may be made to "a court of competent jurisdiction," which runs counter to IGO immunities.

- the TMCH offers no protection or remedies and only time-limited notification (90 days following the introduction of a new gTLD). This is not a sufficient response to GAC advice;

- Because the process is curative rather than preventive, it shifts the costs for the protection of IGO names from registrants trying to register domain names similar to IGO names or acronyms to the IGOs, *i.e.*, to the tax payers of the member states. And note, in addition to the TMCH and URS fees, IGOs would be forced to waste extensive public funds on internal and legal costs to use these processes, not to mention the costs of monitoring the internet and defensive registrations, as those issues are not solved in any manner by the Proposal;

- the URS "remedy" is of limited application (the URS proceedings can only be initiated where a website has been registered in bad faith, so only in the most egregious cases), thus ignoring the issue of potential risk of confusion which is essential for effective protection of IGO identifiers;

As you remember, the GAC Communiqué adopted in Durban (echoing the content of the Beijing Communiqué) acknowledged that:

- IGOs warrant special protection by ICANN due to the fact that they “are in an objectively different category to other rights holders”; and
- because “IGOs perform important global public missions with public funds ... their identifiers (both their names and acronyms) need preventive protection in an expanded DNS”

The Durban and Beijing Communiqués built on the consensus reflected in the Toronto Communiqué, followed by the Board response and the March 2013 communication from the GAC to the ICANN Board, which affirmed that IGO names and acronyms should receive unconditional protection.

As you know, the GAC and IGOs have since evolved from requiring such absolute protections at the second level because IGOs recognise the interest of finding an acceptable compromise taking into account the concerns of all stakeholders.

The Durban Communiqué, after a series of formal and informal discussions with the NGPC, reflected the minimum level of protections with which the GAC and IGOs -- and we thought the NGPC and the Board -- could be comfortable. These compromises were not ideal for the IGOs, since they would provide a much lower level of protections than those which have been put in place for other reserved names, but nevertheless embodied minimum principles for a workable solution. We are concerned that these compromises are now not being respected and that the current Proposal brings us right back to square one. Ultimately, the ICANN Board’s Proposal does not provide adequate protection for IGOs.

Moreover, the Proposal is inconsistent with the ICANN Board’s decision to grant another international organization, the IOC, presumed protection. We are puzzled as to why the ICANN Board declines to understand the need of other well recognized IGOs, including the UN and its subsidiary bodies such as UNICEF and major agencies such as the World Bank Group, for similar protection.

The IGOs have been and remain willing to create workable rules for coexistence of our acronyms at the second level with private entities which have legitimate rights to use the same acronyms as IGOs, provided there is no risk of confusion. In that spirit, we reiterate our readiness to work from the IGO proposal of 21 June (attached for convenience) as a starting point for discussion. This proposal should be considered in good faith by all stakeholders.

For example, we do agree with the ICANN Board’s fundamental principle that a neutral third party arbiter should resolve domain name disputes involving IGO’s. However, the recourse procedure in respect to potential conflict of identifiers between IGOs and other rights holders must be economic, final, and binding without resort to national courts.

The IGOs sincerely hope that we can continue to count on you as representatives of governments, members of our Organisations, and guardians of global public policy in the context of the governance of the Internet, and that the GAC will stand by its repeated advice to the Board regarding the importance of providing adequate preventive and cost-neutral protections for IGO identifiers.



*IGO 21 June 2013*

## **Protection of IGO Names and Acronyms in New gTLDs**

### **Response to the implementation issues raised by the ICANN Board**

#### **I. Languages**

Recognizing the reality that a number of IGOs do use more than one official/working language and that there is a global public policy interest for ICANN to protect IGO names and acronyms in more than one language, the GAC communication to the Board of 22 March 2013 suggested that appropriate provision for protection in additional languages should be made .

At the same time, it is also recognized that there must be reasonable limits, and that the length of any resulting list should be manageable. Therefore, it is proposed that provision be made for the protection of IGO names and acronyms in up to one language additional to that used in the GAC list, as communicated by the concerned IGOs to the GAC, via the IGO coalition, by a set date.

The final list containing the protected IGO names and acronyms in up to two languages will be provided by the GAC to the Board in due course.

#### **II. Process for Future Review of Listed Organizations**

The GAC communication to the Board of 22 March 2013 recognizes that there may be an occasional need to update the list of IGO names and acronyms, reflecting real world changes that may occur from time to time.

Accordingly, the list should be reviewed prior to delegation of any new top level domains in a subsequent new gTLD round, or every three years, whichever is earlier.

The review should be conducted using a simple "mailbox" procedure wherein it would be the responsibility of any concerned IGO (or GAC member) seeking an update to the list to submit a request to the GAC for that purpose. Any received request shall be examined by the GAC at the points in time indicated above, on the basis of the 'Criteria for Protection' provided on 22 March 2013 by the GAC.

In the event of a review resulting in a need to update the list, the GAC would advise the Board accordingly.

#### **III. Acronyms for which there may be several claims**

It is important to recall that the GAC communication to the Board of 22 March 2013 was founded on a recognition, as also expressed in the GAC's advice in the Toronto and Beijing Communiqués, that IGOs are in a public policy category distinct from that of other rights holders or potential registrants in the Domain Name System (DNS). There is a prevailing global public interest in providing special protection for the names and acronyms of IGOs within the DNS. As entities created by governments under public international law, the names and acronyms of IGOs are a legally distinct class of identifier which should not be equated with trademarks (even though a number of IGOs have also voluntarily registered their names and acronyms as a supplementary means of protection).

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As IGOs have indicated on many occasions, their intention is not to prevent good faith use of their acronyms in the DNS by third parties in absolute terms. Rather, IGOs are looking to pre-empt third-party abuse of their acronyms, and to prevent user confusion and the resulting loss of confidence in both IGOs and the DNS.<sup>1</sup> Indeed, the GAC made allowance for the possibility of legitimate third-party registration of a domain name corresponding to a protected IGO acronym with the agreement of the concerned IGO, and IGOs have given assurances that any such agreement would not be unreasonably withheld.

With due regard to this context, reasonable co-existence principles and a simple and cost-neutral process could be devised that would provide additional clarity on allowing exact matches of IGO acronyms to be registered as second-level domain names by third parties in new gTLDs in appropriate cases.<sup>2</sup> As part of its secretariat attributions, ICANN would be responsible for publicly informing registries of the relevant process as described below.

***Principles:***

- IGOs will not object to the second-level registration of their protected acronyms by a third-party potential registrant (hereinafter “prospective registrant”) where the prospective registrant demonstrates that (i) it has been lawfully (e.g. via trademarks) and in good faith using the IGO-protected acronym to identify itself or its products or services and represents that it will continue using the IGO-protected acronym for the same purpose; and (ii) the concerned IGO has no reasons to believe that the intended registration and use would be unlawful, dishonest or potentially mislead the public as to the existence of a connection between the IGO and the registrant or the prospective registrant’s website, activities, products or services (e.g. likelihood of confusion as to the source, sponsorship, affiliation, or endorsement).
- An IGO and a prospective registrant may bilaterally agree on conditions for registration of an IGO-protected acronym at the second level in one or several new gTLDs, which agreement will be stipulated in writing.
- IGOs will not seek any compensation in consideration for the non-objection to the registration of its protected acronym as a domain name by the prospective registrant in new gTLDs.

***Process:***

- In order to ensure that prospective domain name registrants are aware of protected IGO names and acronyms and know how to contact the relevant IGOs if necessary in connection with any contemplated registration of a domain name corresponding to a protected name or acronym, ICANN should, at minimum, post the GAC list on its

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<sup>1</sup> IGOs cannot adequately resort to individual procedures for protecting their names and acronyms in ICANN’s Uniform Domain Name Dispute Resolution Policy (UDRP). The UDRP’s procedures are inconsistent with the privileges and immunities of IGOs, including its mutual jurisdiction provisions; resorting to individual protection would be costly to the Member States of IGOs; the UDRP requires a trademark for standing (bearing in mind that the names and acronyms of IGOs are not to be equated with trademarks, even if a number of IGOs may have obtained supplementary protection in the form of trademarks in certain jurisdictions); and the UDRP is curative in the type of protection it provides, whereas IGOs are seeking pre-emptive protection of their names and acronyms in the context of ICANN plans to vastly expand the DNS.

<sup>2</sup> This mechanism could potentially be revisited in future rounds of the New gTLD Program in light of experience in the first round.

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website, advise all registries accordingly, and all registries will factor the GAC list into their electronic registration systems.

- In the event of the existence of an agreement between the IGO and the prospective registrant as indicated above, the prospective registrant should produce a copy of this agreement to the registry during the domain name registration process in relation to a domain name for which the parties agreed there would be no objection by the IGO.
- In other cases, the prospective registrant will notify the concerned IGO and registry of its desire to register an IGO-protected acronym as a domain name in one or several new gTLDs, providing all relevant information about itself and its intended use, as well as a statement that the provided information is truthful and accurate and that it warrants to use the domain name(s) for the intended use only and not for any dishonest or deceptive purpose.

For this purpose, the contact details for each IGO on the list provided by the GAC will be annexed to this list. It will be the responsibility of each IGO to inform ICANN of any change in its contact information. ICANN will then inform all registries accordingly.

- The IGO may request additional reasonable information or clarifications from the prospective registrant in order to better inform its decision or to confirm the veracity of the prospective registrant's statements. Failure by the prospective registrant to promptly and adequately respond to the IGO's requests may be grounds for objection by the IGO to the registration. This request will not extend the 60 day time period described below.
- The IGO will be under an obligation to communicate its objection (or lack thereof)<sup>3</sup>, as the case may be, to the registration by the prospective registrant of its protected acronym, within 60 days from the receipt of the prospective registrant's notification, copying the registry. Failure by the concerned IGO to respond within this timeframe will be equivalent to a lack of objection.
- In the event of objection, the IGO will provide the rationale for the objection in its response.
- Compliance with the established timeframe will be assessed, if necessary, by the concerned registry, which will be put on copy of all exchanges between the IGO and the prospective registrant. It will be the responsibility of the IGO and the prospective registrant to put the registry on copy of their correspondence; the consequences of any failure to do so will be borne by the party responsible for such omission. This means that the prospective registrant's failure to put both the concerned IGO and registry on copy of its request will invalidate the process and annul the 60 day IGO response period, without prejudice to the possibility of future requests by the prospective registrant. IGO failure to put both the prospective registrant and concerned registry on copy of its objection will equate to failure to object within the 60 day response period.

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<sup>3</sup> Template objection and no-objection forms could be developed in order to simplify the process.

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- Lack of objection on the part of the IGO (either through the IGO's express statement to that effect or through its failure to respond to the prospective registrant's notification within the established timeframe) will (provided the registry is satisfied that the concerned IGO was properly copied by the prospective registrant on the initial request) provide the basis for registration of the IGO-protected acronym by the prospective registrant.
- If the IGO, having been appropriately copied on the prospective registrant's request, expressly objects, within the established timeframe, to the use of its protected acronym by the prospective registrant, the registry (via its registrars as may be appropriate) will refuse to register the domain name corresponding to the IGO-protected acronym under the prospective registrant's name. It will simply state as the basis for its refusal the special protection of the concerned IGO acronym by reference to the publicly-posted list by ICANN and timely objection of the concerned IGO.
- The prospective registrant can appeal to the GAC and ICANN for a review of the IGO objection. Their decision will be final and will conclude the present process.<sup>4</sup>
- If the registrant at any time uses the domain name corresponding to the IGO-protected acronym other than for the particular intended use as notified to the IGO during the process, the IGO or any other party can seek relief from the registrar's abuse point of contact.
- Registration and use of an IGO-protected acronym is particular to the specific registrant. The process will have to be carried out again prior to any transfer of the ownership of, or grant of a permission to operate, the domain name to another third party.

***Other Considerations:***

In the event that an IGO-protected acronym corresponds to another name or acronym reserved or otherwise protected in new gTLDs (e.g. country or territory name), each of those parties shall have the right to register the acronym as a domain name, without having to seek the permission of the other, on the understanding that each will act in good faith and will endeavor to avoid confusion as much as possible. Third parties will have to seek permission from both of the aforementioned parties in order to be able to register the acronym as a domain name.

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<sup>4</sup> This is modeled after the provision of the draft registry agreement regarding country and territory names. It is important that any review process be administratively simple and cost neutral, therefore this process should not be modeled after existing curative dispute mechanisms. For the same reasons, multiple possibilities for appeals should be avoided.