

COMPILATION OF GAC COMMUNICATIONS AND ADVICE CONCERNING PROTECTION FOR IGO NAMES & ACRONYMS

April 2012 (Letter to ICANN Board)

The GAC has considered the Board's request for policy advice on the expansion of protections to include IGOs, and advises that in the event that additional IGOs are found to meet the above criteria, this would be a consideration in the formulation of GAC advice for IGO protections in future rounds, as well as consideration of protections for IGOs, more generally.

Therefore, the GAC advises that no additional protections should be afforded to IGOs, beyond the current protections found in the Applicant Guidebook, for the current round.

October 2012 (Toronto Communique)

While the GAC continues its deliberations on the protection of the names and acronyms of Intergovernmental Organizations (IGOs) against inappropriate third-party registration;

The GAC advises the ICANN Board that:

- In the public interest, implementation of such protection at the second level must be accomplished prior to the delegation of any new gTLDs, and in future rounds of gTLDs at the second and top level.
- The GAC believes that the current criteria for registration under the .int top level domain, which are cited in the Applicant Guidebook as a basis for an IGO to file a legal rights objection, provide a starting basis for protecting IGO names and acronyms in all new gTLDs.
- Building on these criteria, the GAC and IGOs will collaborate to develop a list of the names and acronyms of IGOs that should be protected. Pending further work with ICANN on specific implementation measures for this initiative, the GAC believes this list of IGOs should be approved for interim protection through a moratorium against third-party registration prior to the delegation of any new gTLDs.

April 2013 (Beijing Communique)

The GAC stresses that the IGOs perform an important global public mission with public funds, they are the creations of government under international law, and their names and acronyms warrant special protection in an expanded DNS. Such protection, which the GAC has previously advised, should be a priority.

This recognizes that IGOs are in an objectively different category to other rights holders, warranting special protection by ICANN in the DNS, while also preserving sufficient flexibility for workable implementation.

The GAC is mindful of outstanding implementation issues and commits to actively working with IGOs, the Board, and ICANN Staff to find a workable and timely way forward.

Pending the resolution of these implementation issues, the GAC reiterates its advice to the ICANN Board that ... appropriate preventative initial protection for the IGO names and acronyms on the provided list be in place before any new gTLDs would launch.

July 2013 (Durban Communiqué)

a. The GAC reaffirms its previous advice from the Toronto and Beijing Meetings that IGOs are in an objectively different category to other rights holders thus warranting special protection by ICANN. IGOs perform important global public missions with public funds and as such, their identifiers (both their names and their acronyms) need preventative protection in an expanded DNS.

b. The GAC understands that the ICANN Board, further to its previous assurances, is prepared to fully implement GAC advice; an outstanding matter to be finalized is the practical and effective implementation of the permanent preventative protection of IGO acronyms at the second level.

c. *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:

- 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.
- c. The initial protections for IGO acronyms confirmed by the NGPC at its meeting of 2 July 2013 should remain in place until the dialogue between the GAC, NGPC, and IGO representatives ensuring the implementation of preventative protection for IGO acronyms at the second level is completed.

November 2013 (Buenos Aires Communiqué)

The GAC advises the ICANN Board that:

The GAC, together with IGOs, remains committed to continuing the dialogue with NGPC on finalising the modalities for permanent protection of IGO acronyms at the second level, by putting in place a mechanism which would:

- a. provide for a permanent system of notifications to both the potential registrant and the relevant IGO as to a possible conflict if a potential registrant seeks to register a domain name matching the acronym of that IGO;
- b. allow the IGO a timely opportunity to effectively prevent potential misuse and confusion;
- c. allow for a final and binding determination by an independent third party in order to resolve any disagreement between an IGO and a potential registrant; and
- d. be at no cost or of a nominal cost only to the IGO.

The GAC looks forward to receiving the alternative NGPC proposal adequately addressing this advice. The initial protections for IGO acronyms should remain in place until the dialogue between the NGPC, the IGOs and the GAC ensuring the implementation of this protection is completed.

March 2014 (Singapore Communique)

The GAC recalls its previous public policy advice from the Toronto, Beijing, Durban and Buenos Aires Communiqués regarding protection for IGO names and acronyms at the top and second levels and awaits the Board's response regarding implementation of the GAC advice.

June 2014 (London Communique)

The GAC:

- reaffirms its advice from the Toronto, Beijing, Durban, Buenos Aires and Singapore Communiqués regarding protection for IGO names and acronyms at the top and second levels, as implementation of such protection is in the public interest given that IGOs, as created by governments under international law are objectively different rights holders;
- notes the NGPC's letter of 16 June 2014 to the GNSO concerning further steps under the GNSO Policy Development Process while expressing concerns that the process of implementing GAC advice has been so protracted;
- welcomes the NGPC's assurance that interim protections remain in place pending any such process; and
- confirms its willingness to work with the GNSO on outcomes that meet the GAC's concerns.

October 2014 (Los Angeles Communique)

The GAC reaffirms its advice from the Toronto, Beijing, Durban, Buenos Aires, Singapore and London Communiqués regarding protection of IGO names and acronyms at the top and second levels, as implementation of such protection is in the public interest given that IGOs, as created by governments under international law, are objectively different right holders; namely,

- i. Concerning preventative protection at the second level, the GAC reminds the ICANN Board that notice of a match to an IGO name or acronym to prospective registrants, as well as to the concerned IGO, should apply in perpetuity for the concerned name and acronym in two languages, and at no cost to IGOs;
- ii. Concerning curative protection at the second level, and noting the ongoing GNSO PDP on access to curative Rights Protection Mechanisms, the GAC reminds the ICANN Board that any such mechanism should be at no or nominal cost to IGOs; and further, in implementing any such curative mechanism,

The GAC advises the ICANN Board:

- that the UDRP should not be amended;
- welcomes the NGPC's continued assurance that interim protections remain in place pending the resolution of discussions concerning preventative protection of IGO names and acronyms; and
- supports continued dialogue between the GAC (including IGOs), the ICANN Board (NGPC) and the GNSO to develop concrete solutions to implement long-standing GAC advice.

February 2015 (Singapore Communique)

The GAC will continue to work with interested parties to reach agreement on appropriate permanent protections for names and acronyms for Inter-Governmental Organisations. This will include working with the GNSO PDP Working Group on IGO-INGO Access to Curative Rights Protection Mechanisms; and with IGOs and the NGPC.

June 2015 (Buenos Aires Communique)

Consistent with previous GAC advice in previous Communiqués regarding protection for IGO names and acronyms at the top and second levels, the GAC takes note of the progress made by the informal “small group” towards developing mechanisms in line with previous GAC advice, and calls upon the small group to meet in the near term with a view towards developing a concrete proposal for these mechanisms before the next ICANN meetings in Dublin; and welcomes the preventative protections that remain in place until the implementation of permanent mechanisms for protection of IGO names and acronyms at the top and second levels.

October 2015 (Dublin Communique):

The GAC advises the Board:

- to facilitate the timely conclusion of discussions of the “small group” and the NGPC in an effort to resolve the issue of IGO protections.

June 2016 (Helsinki Communique):

The GAC remains committed to protections of IGO names and acronyms at the top and second levels, which are in the public interest given that IGOs, as publicly-funded entities created by governments under international law, are objectively unique rights holders.

The GAC recalls its advice since the 2012 Toronto Communiqué in this regard, and remains of the view that: (i) concerning preventive protection at the second level, that notice of a match to an IGO name or acronym to prospective registrants as well as the concerned IGO should be mandated in perpetuity for the concerned name and acronym in two languages and at no cost to IGOs; (ii) concerning curative protection at the second level, and noting the ongoing GNSO PDP on access to curative rights protection measures, that any such mechanism should be separate from the existing UDRP, offer parties an “appeal” through arbitration, and be at no or nominal cost to IGOs;

The GAC notes the ongoing work of the informal “small group” and the efforts of those involved to develop mechanisms that implement the above-mentioned advice. The GAC remains of the view that the preventative protections for IGO acronyms should be maintained pending the implementation of mechanisms for the permanent protection of IGO names and acronyms at the top and second levels.

November 2016 (Hyderabad Communique):

The GAC takes note of the letter from the Secretary General of the United Nations to Ministers regarding policy development at ICANN related to the potential unauthorized use of IGO names and acronyms in the Internet Domain Name System. In this respect, the GAC reiterates its concern regarding the issue set forth by the UN Secretary General.

a. The GAC advises the ICANN Board:

I. To take action and engage with all parties in order to facilitate, through a transparent and good faith dialogue, the resolution of outstanding inconsistencies between GAC advice and GNSO recommendations with regard to the protection of IGO acronyms in the DNS and to report on progress at ICANN 58.

II. That a starting basis for resolution of differences between GAC Advice and existing GNSO Recommendations would be the small group compromise proposal set out in the October 4, 2016 letter from the ICANN Board Chair to the GNSO, namely that ICANN would establish all of the following, with respect to IGO acronyms at the second level:

- a procedure to notify IGOs of third-party registration of their acronyms;
- a dispute resolution mechanism modeled on but separate from the UDRP, which provides in particular for appeal to an arbitral tribunal instead of national courts, in conformity with relevant principles of international law; and
- an emergency relief (e.g., 24-48 hours) domain name suspension mechanism to combat risk of imminent harm.

III. That, to facilitate the implementation of the above advice, the GAC invites the GNSO Working Group on Curative Rights Protection Mechanisms to take the small group proposal into account.

IV. That, until such measures are implemented, IGO acronyms on the GAC-provided list remain reserved in two languages.

Rationale:

IGOs undertake global public service missions, and protecting their names and acronyms in the DNS is in the global public interest. IGOs are unique treaty-based institutions created by governments under international law. The small group compromise strikes a reasonable balance between rights and concerns of both IGOs and legitimate third parties. ICANN's Bylaws and Core Values indicate that the concerns and interests of entities most affected, here IGOs, should be taken into account in policy development processes.

March 2017 (Copenhagen Communique):

The GAC notes that a dialogue facilitated by the Board on this topic has begun between the GAC and the GNSO (including its relevant Working Groups). The GAC expects that these discussions would resolve the long-outstanding issue of IGO acronym protections and

understands that temporary protections will continue to remain in place until such time as a permanent agreed solution is found.

Based upon the facilitated discussions up to this stage,

The GAC advises the ICANN Board to:

I. Pursue implementation of (i) a permanent system of notification to IGOs regarding second-level registration of strings that match their acronyms in up to two languages and (ii) a parallel system of notification to registrants for a more limited time period, in line with both previous GAC advice and GNSO recommendations;

II. Facilitate continued discussions in order to develop a resolution that will reflect (i) the fact that IGOs are in an objectively unique category of rights holders and (ii) a better understanding of relevant GAC Advice, particularly as it relates to IGO immunities recognized under international law as noted by IGO Legal Counsels; and

III. Urge the Working Group for the ongoing PDP on IGO-INGO Access to Curative Rights Protection Mechanisms to take into account the GAC's comments on the Initial Report.

Rationale:

This Advice captures achievements made to date in the facilitated discussions, in the hope that this will be instrumental in resolving this long-standing issue at the earliest opportunity.

June 2017 (Johannesburg Communique):

a. The GAC reiterates its Advice that IGO access to curative dispute resolution mechanism should:

- I. be modeled on, but separate from, the existing Uniform Dispute Resolution Policy (UDRP)
- II. provide standing based on IGOs' status as public intergovernmental institutions, and
- III. respect IGOs' jurisdictional status by facilitating appeals exclusively through arbitration.

The GAC expresses concern that a GNSO working group has indicated that it may deliver recommendations which substantially differ from GAC Advice, and calls on the ICANN Board to ensure that such recommendations adequately reflect input and expertise provided by IGOs.

Rationale:

This Advice aligns with the view of governments that IGOs perform important public functions for citizens worldwide, and that protecting their identities in the DNS serves to minimize the potential for consumer harm.