# Protection of IGO and INGO Identifiers in All gTLDs  Policy Development Process

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# PDP Charter Mandate

1) Whether there is a need for special protections at the top and second level in all existing and new gTLDs for the names and acronyms of IGOs and INGOs receiving protections under treaties and statutes under multiple jurisdictions, specifically including the Red Cross/Red Crescent Movement (RCRC) and the International Olympic Committee (IOC).
2) If there is a need for special protections at the top and second level in all existing and new gTLDs for certain international organization names and acronyms, the PDP WG is expected to develop policy recommendations for such protections.
   - Determine whether the current special protections being provided to RCRC and IOC names at the top and second level of the initial round of new gTLDs should be made permanent for RCRC and IOC names in all gTLDs and if not, develop specific recommendations for appropriate special protections for these names.
   - Develop specific recommendations for appropriate special protections for the names and acronyms of all other qualifying international organizations.

# General Counsel Research Request & Findings

- WG requested ICANN's General Counsel to conduct research and report on whether ICANN is aware of any jurisdiction in which a statute, treaty or other applicable law prohibits either or both of the following actions by or under the authority of ICANN:
    - the assignment by ICANN at the top level, or
    - the registration by a registry or a registrar accredited by ICANN of a domain name requested by any party at the second level, of the name or acronym of an intergovernmental organization (IGO) or an international non-governmental organization receiving protections under treaties and statutes under multiple jurisdictions (INGO)
- The WG requested the General Counsel to specify the jurisdiction(s) and cite the law if the answer to either of these questions was affirmative.

# General Counsel Research Request & Findings

- In summary, the research conducted by the General Counsel indicated that with the exception of two jurisdictions - Brazil and Mexico, there is no international treaty or national law that specifically prohibits the allowing of a domain name registration of an IGO or INGO identifier by a third party.
  - In the case of Brazil, the unauthorized registration of a domain name using the IOC or FIFA name is explicitly prohibited.
  - In Mexico, the unauthorized registration of a domain name using the IOC name is prohibited.

- Certain international treaties and national laws may provide causes of action to challenge such registrations, e.g., trademark infringement, unfair competition.

# Deliberation Issues/WG Discussions

- Quantifying the Entities to be Considered for Special Protection

- Evaluating the Scope of Existing Protections under International Treaties/Laws for IGO, RCRC and IOC Names

- Establishing Qualification Criteria for Special Protection of International Organization Names

- Distinguishing Any Substantive Differences Between the RCRC and IOC From Other International Organizations

# Deliberation Issues/WG Discussions

**Sub-working groups established**

- Nature of the Problem
- Qualification Criteria
- Eligibility Process
- Admission to Protections
- Types of Protection

# Working Qualification Criteria Proposals

## Proposal #1

- International in scope and operations, and
- Primary mission of such importance to the public interest
- That it receives multilateral or multinational protection, such as:
  - Protection by treaty; or
  - Protection in multiple national jurisdictions; or
  - Inclusion in the ECOSOC list;
- And that some form of special protection for its name and acronym can be justified

## Proposal #2

Pick one of:

- Treaty
- .int list
- ECOSOC general consultative list
- maybe some other list yet to be discovered

+ Pick one of:

- Have protective laws in at least 25 nations
- Have protective laws in at 3 countries in 4/5 UN regions

# Areas of Concern

- Preventive versus curative measures for protection
- Need for different qualification criteria for different levels/classes of protection
- Divergent views on how to structure an exemption procedure for protected organization identifiers
- Divergent views on whether there is a need to demonstrate (additional) evidence of harm as a requirement to qualify for special protections of an organization's identifier(s)

# Working Proposals for Protection: Top Level

1) Top-level protections are granted via the Reserved Names list as defined in the Applicant Guidebook in section 2.2.1.2.3

2) No additional top-level protections will be created (i.e. identifiers will not be added to the Reserved Names list per Specification 6 of the proposed Registry Agreement)

3) IGO/INGO organizations meeting specified qualification criteria (TBD) shall be granted equivalent standing similar to the GAC and the ALAC for filing objections in the applications for future gTLDs

4) Conduct review of existing top-level Dispute Resolution processes and modify as necessary to accommodate deficiencies, if any, for protection of IGO/INGO identifiers

# Working Proposals for Protection: 2nd Level

1) Second-level protections are granted via the Reserved Names list as defined in the Applicant Guidebook in section 2.2.1.2.3

2) 2nd-level identifiers of IGO/INGO names will not be added to the Reserved Names list per Specification 6 of the proposed Registry Agreement

3) Modify the Trademark Clearinghouse (TMCH) central repository for use by IGO/INGO organizations, based on qualification criteria (TBD)

4) Make free or reduce pricing for registering into the TMCH the identifiers of IGO/INGO organizations meeting specified qualification criteria (TBD)

# Working Proposals for Protection: 2nd Level

5) Allow IGO/INGO organizations meeting specified qualification criteria (TBD), access to new gTLD Sunrise activities as they become delegated

6) Allow IGO/INGO organizations meeting specified qualification criteria (TBD), access to [permanent or 90 days] Trademark Claims of new gTLDs delegated

7) Create a registration exception procedure for IGO/INGO permanent Trademark Claims where legitimate use of domain may exist if it becomes applied for

8) Review and modify where necessary the curative rights protections of the URS and UDRP such that IGO/INGO organizations meeting specified qualification criteria (TBD), have access to these curative rights protections. This set of recommendations could include pricing/ cost considerations for IGO/INGO organizations.

# Next Steps

Current goal is to publish Initial Report and open public comment forum by end of April

# Thank You & Questions?

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