



IPC Reply Comments on  
Draft Final Report ccNSO Study Group  
on the use of Country and Territory Names as TLDs  
August 30, 2013

The Intellectual Property Constituency (IPC) is pleased to provide comments on the ccNSO Study Group on the use of Country and Territory Names as TLDs.

The IPC joins the ALAC in congratulating the ccNSO Study Group for their hard work in delivering valuable contributions to the ICANN community on the use of Country and Territory Names as TLDs. The IPC supports the ccNSO Study Group's recommendation for further study, and believes further consideration of policy and legal implications are necessary before any existing policies (such as current new gTLD policy provisions) are extended or otherwise amended.

The IPC notes that discussion of legal rights associated with TLDs that relate to country and territory names were plainly outside of the study group's mandate. (See Initial Report, at p. 7). Rather, the Study Group was charged with identifying existing use and policy around country and territory names; providing an overview of the types and categories of strings currently used or proposed to be used as TLDs that are either associated with Countries and Territories; and summarizing the issues likely to arise in connection with applying policies to current or proposed strings. (See *Id.*, at p.6).

We find the ccNSO Study Group's research helpful in the three subject-matter areas described above, and agree with the Study Group's observation that a "ICANN's current policy framework (the Applicant Guidebook) for the introduction of new gTLDs affords an unprecedented level of protection for country and territory names." (See *Id.*, at p.34). The IPC supports the Study Group's recommendation for further study on this issue. A central benefit of further study and consideration of the policy issues is the potential harmonization of ICANN's policy and procedures on the use of Country and Territory Names as TLDs.

In light of the need for a broader and closer review of the issues, we do not support the ccNSO Study Group recommendation to extend the current prohibition in the new gTLD Applicant Guidebook regarding the exclusion of all country and territory names in all languages (See *Id.*, at p.4) for consecutive rounds. Moreover, we believe this issue can be resolved prior to launching another round of gTLDs.

From a governance perspective, the ccNSO Study Group recommendation “to the ICANN Board” to extend “the current prohibition in the new gTLD Applicant Guidebook regarding the exclusion of all country and territory names in all languages” appears incongruent with the ccNSO’s role under the ICANN Bylaws.

Under the Bylaws, the ccNSO is charged with “developing and recommending to the Board global policies *relating to country-code top-level domains*” (emphasis added) pursuant to Bylaws Article IX Section 1. Recommendations concerning the allocation of country and territory names as gTLDs should be advanced by the GNSO, whose mandate is “developing and recommending to the ICANN Board substantive policies *relating to generic top-level domains*” (emphasis added) pursuant to Article X, Section 1.

In any case, any specific policy or procedure on the use of Country and Territory Names as TLDs, including as they may relate to current or future new gTLD applications, should not be frozen or made permanent until further study on the topic, as recommended by the ccNSO Study Group, is complete and fully considered by the community.

Additional considerations should address the interplay of legal rights – including intellectual property rights, in the delegation of strings associated with country and territory names. We note the reference to 'sovereign rights' (See *Id.*, at p. 9) of the Study Group Report is beyond the mandate of the group as summarized.

The IPC supports the development of consistent ICANN policy and procedures on the use of Country and Territory Names across all TLDs, which adequately respects and incorporates legal rights in line with existing internationally-recognized legal frameworks. Further study on these issues by the community will assist ICANN in accomplishing these important objectives.

Thank you for considering our views on these important issues.

Respectfully submitted,

Intellectual Property Constituency (IPC)