

# **Final Report on the Protection of IGO and INGO Identifiers in All gTLDs Policy Development Process**

## **STATUS OF THIS DOCUMENT**

This is the Final Report on the Protection of IGO and INGO Identifiers in all gTLDs, prepared by ICANN staff and the Working Group. It contains policy recommendations from the PDP Working Group (“WG”). This Final Report was submitted to the GNSO Council on 10 November, 2013 for their consideration.

## TABLE OF CONTENTS

<b>1. EXECUTIVE SUMMARY</b>	<b>3</b>
<b>2. OBJECTIVE</b>	<b>6</b>
<b>3. WORKING GROUP RECOMMENDATIONS</b>	<b>7</b>
<b>4. DELIBERATIONS OF THE WORKING GROUP</b>	<b>30</b>
<b>5. BACKGROUND</b>	<b>38</b>
<b>6. COMMUNITY INPUT</b>	<b>47</b>
<b>7. NEXT STEPS</b>	<b>53</b>
<b>ANNEX 1 – PDP WG CHARTER</b>	<b>54</b>
<b>ANNEX 2 – WORKING GROUP MEMBERS AND ATTENDANCE</b>	<b>62</b>
<b>ANNEX 3 – COMMUNITY INPUT STATEMENT REQUEST TEMPLATE</b>	<b>65</b>
<b>ANNEX 4 – ISSUE REPORT TEMPLATE REQUEST FORM</b>	<b>68</b>
<b>ANNEX 5 – ICANN GENERAL COUNSEL OFFICE RESEARCH REPORT</b>	<b>70</b>

# 1. Executive Summary

## 1.1 Working Group Recommendations

- Section 3 contains the Working Group's (WG) recommendations on the protections of IGO-INGO identifiers. Each recommendation is presented per organization type [i.e. Red Cross Red Crescent (RCRC), International Olympic Committee (IOC), International Governmental Organization (IGO) and other International Non-Governmental Organizations (INGO)]. A set of general recommendations not attributed to any specific organization is also included. Within each organization type, varying levels of protection were considered independently. Given the complexity of identifiers considered, the protection was either based on full name and/or acronym or language scope, and as such a structure to maintain these distinctions was created. A set of definitions, consensus scale per Working Group Guidelines, and Consensus Call legends are also included in Section #3. When reviewing the recommendations charts in sections 3.1 and beyond, please refer to the specific definition (i.e. Scope of identifier) that corresponds to the set recommendations for each organization. The scope does vary for each organization.
- There are well over 20 total proposed policy recommendations that are presented in detail within Section 3. For each recommendation, the level of consensus agreed upon by the WG is also identified according to the GNSO Working Group Guidelines.

## 1.2 Deliberations of the Working Group

- The Protection of IGO, INGO, IOC and RCRC Identifiers in All gTLDs Working Group started its deliberations on 31 October 2012 where it was decided to continue the work primarily through weekly conference calls, in addition to e-mail exchanges.
- Section 4 provides an overview of the deliberations of the Working Group conducted both by conference calls as well as e-mail threads.
- Section 4 also includes a brief summary of the ICANN General Counsel's survey of the protections provided to certain international organizations under international treaties and a sampling of national jurisdictions, prepared in response to specific questions submitted by

the Working Group regarding whether there were any treaties or national laws that would prohibit the domain name registration of RCRC, IOC, IGO and/or INGO identifiers.

### 1.3 Background

- Providing special protections for the names and acronyms of the Red Cross Red Crescent Movement, (“RCRC”), International Olympic Committee (“IOC”), other International Non-Governmental Organizations (“INGOs”) and for International Government Organizations (“IGOs”) and from third party domain name registrations at the top and second levels of new gTLDs has been a long-standing issue over the course of the New gTLD Program.
- The GAC has advised the ICANN Board to provide special permanent protections for the RCRC and IOC names at the top and second levels of new gTLDs, and special protections against inappropriate third party registration for the names and acronyms of IGOs at the second level of new gTLDs and at the top level in any future new gTLD rounds. In the case of IGOs, the GAC has further advised that the IGO names and acronyms “may not be acquired by any third party as a domain name at either the top or the second level unless express written permission is obtained from the IGO concerned<sup>1</sup>.”
- A GNSO Issue Report was prepared by staff as a result of a recommendation from an IOC/RCRC Drafting Team<sup>2</sup> formed to develop a possible response to the GAC about GNSO policy implications for granting protections of names.
- The GNSO Council considered the Final GNSO Issue Report on the Protection of International Organization Names in New gTLDs, and approved a motion to initiate a Policy Development Process (“PDP”) for the protection of certain international organization names and acronyms in all gTLDs. The Working Group (“WG”) was formed on 31 October 2012 and the WG Charter was approved by the GNSO Council on 15 November 2012. The decision was

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<sup>1</sup> See Letter and Annexes from Heather Dryden to Steve Crocker and Cherine Chalaby: <http://www.icann.org/en/news/correspondence/dryden-to-crocker-chalaby-22mar13-en>  
<http://www.icann.org/en/news/correspondence/dryden-to-crocker-chalaby-annex1-22mar13-en.pdf>  
<http://www.icann.org/en/news/correspondence/dryden-to-crocker-chalaby-annex2-22mar13-en.pdf>

<sup>2</sup> IOC / RCRC Protection DT Archive: <http://gns0.icann.org/en/group-activities/active/ioc-rcrc>

taken in this context to subsume the issues of the IOC and of the Red Cross and Red Crescent designations and names under the new Working Group and PDP process.

- On 14 June 2013, the IGO-INGO Working Group submitted its Initial Report on the protection of IGO-INGO identifiers for a 42 day public comment period. While the Working Group (WG) received several comments on the topic of protections for certain organizations, all the contributions received were from members of the IGO-INGO WG and as such the nature of those comments had already been discussed within the WG.
- Prior to and in parallel to the IGO-INGO WG, the NGPC adopted a series of resolutions to provide protections for the IOC and RCRC identifiers in Specification 5 of the approved Registry Agreement for New gTLDs following the GAC advice until any policy recommendations from the GNSO would require further and/or different action. A temporary placement of IGO identifiers, as supplied by the GAC, was also placed into Specification 5 of the agreement until further deliberations at the Buenos Aires meeting in Nov 2013 can occur.

#### **1.4 Stakeholder Group / Constituency Statements & Public Comment Periods**

- The WG requested input from the GNSO Stakeholder Groups and Constituencies, as well as other ICANN Supporting Organizations and Advisory Committees. Further information on the community input received, as well as a brief summary of the positions submitted by IGOs and INGOs is available in Section 6.

#### **1.5 Conclusions and Next Steps**

- This Final Report is being submitted to the GNSO Council for their consideration to determine what further actions to take. The IGO-INGO WG will follow the directions of the Council if any additional work is needed and/or if an Implementation Review Team is formed.

## 2. Objective

This Final Report on the Protection of IGO, INGO, IOC and RCRC Identifiers in all gTLDs PDP is being published pursuant to the GNSO Policy Development Process set forth under the ICANN Bylaws (see <http://www.icann.org/general/bylaws.htm#AnnexA>). The proposed policy recommendations for the protection of IGO and INGO (including RCRC and IOC) identifiers in all gTLDs presented in this Final Report also contain the Working Group Chair's assessment on the levels of consensus. The objective of this Final Report is to present the policy recommendations to the GNSO Council for further consideration and action.

### 3. Working Group Recommendations

This section contains the Working Group's (WG) recommendations on the protections of IGO-INGO identifiers in all gTLDs. Each recommendation is presented per organization type [i.e. Red Cross Red Crescent (RCRC), International Olympic Committee (IOC), other International Non-Governmental Organizations (INGO), and International Governmental Organization (IGO)]. A set of general recommendations not attributed to any specific organization is also included. Within each organization type, the WG considered varying levels of protection independently. Given the complexity of identifiers and the scope of the protections considered, the recommendations are presented in a chart for ease of review. A set of definitions, consensus scale per Working Group Guidelines, and Consensus Call legends are also listed below and should be considered when reviewing the chart of recommendations.

#### Identifier Definitions:

- **Identifier** - The full name or acronym used by the organization seeking protection; its eligibility is established by an approved list.
- **Scope** – the limited list of eligible identifiers distinguished by type (name or acronym) or by additional designations as agreed upon and indicated in the text below; may also include lists approved by the GAC (where this is the case it is expressly indicated as such in the text below).
- **Language** – The scope of languages for which a Latin-script identifier is to be protected.

#### Consensus Scale:

Each recommendation will include a corresponding level of consensus as agreed to by the WG. The consensus scale documented here is an extract from the GNSO Working Group Guidelines<sup>3</sup>.

- **Full Consensus** - when no one in the group speaks against the recommendation in its last readings. This is also sometimes referred to as Unanimous Consensus.
- **Consensus** - a position where only a small minority disagrees, but most agree. \*\*
- **Strong Support but Significant Opposition** - a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it. \*\*
- **Divergence** (also referred to as No Consensus) - a position where there isn't strong support for any particular position, but many (two or more) different points of view. Sometimes this

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<sup>3</sup> GNSO WG Guidelines: <http://gns0.icann.org/council/annex-1-gns0-wg-guidelines-08apr11-en.pdf>

is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.\*\*

**\*\*Minority View** - refers to a proposal where a small number of people support the recommendation. This can happen in response to a Consensus, Strong support but significant opposition, and Divergence (i.e., No Consensus); or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.

Note: The WG decided to only include recommendations that received at least ‘strong support but significant opposition’ in its recommendations in Sections 3.1 to 3.5. Unsupported proposals (i.e., those where there was divergence of support or no consensus) are shown in Section 3.6.

### **Consensus Call Submissions Legend:**

The following legend shows the individuals and groups that participated in the WG’s final consensus call. For each recommendation in Sections 3.1 to 3.5, GNSO Groups that did not support the recommendation are names and in some cases their rationale is provided. Consensus call detailed responses can be found in the Consensus Call Supplement (PDF) provided with this report<sup>4</sup>.

- PI (individual): Submitted by Poncelet Ileleji – 27 Aug 2013
- ISO,IEC: Submitted by Claudia MacMaster Tamarit – 28 Aug 2013
- IGOs: Submitted by Sam Paltridge – 3 Sep 2013
- RCRC: Submitted by Stephane Hankins – 3 Sep 2013
- IOC: Submitted by James Bikoff – 3 Sep 2013
- RL (individual): Submitted by Mike Rodenbaugh – 3 Sep 2013
- ALAC: Submitted by Alan Greenberg – 3 Sep 2013
- RySG: Submitted by David Maher – 3 Sep 2013
- NCSG: Submitted by Avri Doria – 3 Sep 2013
- IPC: Submitted by Greg Shatan – 4 Sep 2013
- ISPCP: Submitted by Osvaldo Novoa – 11 Sep 2013
- RrSG: Did not submit
- CBUC: Submitted by Steve DelBianco – 2 Nov 2013

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<sup>4</sup> At the time of writing this report, the final URL for the Final Report had not been established. Additional supplements to this report are also provided in PDF format and can be found in the IGO-INGO webpage: <http://gnso.icann.org/en/group-activities/active/igo-ingo>



**Minority Positions:**

Several minority statements were filed for this set of recommendations and they can be found as supplement PDFs provided with this Final Report. The minority position statements are provided as supplements<sup>5</sup> to allow stakeholders additional time in which to submit new statements or revisions due to the deadline for submitting motions and documents to the GNSO Council. Each minority position filed lists the group represented and the person that filed it.

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<sup>5</sup> At the time of writing this report, the final URL for the Final Report had not been established. Additional supplements to this report are also provided in PDF format and can be found in the IGO-INGO webpage: <http://gnso.icann.org/en/group-activities/active/igo-ingo>

### 3.1 Red Cross Red Crescent Movement (RCRC) Recommendations<sup>6</sup>

#	Recommendation	Level of Support
	<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> "Red Cross", "Red Crescent", "Red Lion and Sun" and "Red Crystal" (Language: UN6)</li> <li>○ <b>Scope 2 Identifiers:</b> 189 recognized National Red Cross and Red Crescent Societies; International Committee of the Red Cross; International Federation of Red Cross and Red Crescent Societies; ICRC, CICR, CICV, MKKK, IFRC, FICR (Language: in English, as well as in their respective national languages; ICRC &amp; IFRC protected in UN6)<sup>***</sup></li> </ul>	
1	<b>Top-Level</b> protections of <u>Exact Match, Full Name</u> Scope 1 identifiers of the <i>Red Cross Red Crescent Movement</i> are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Consensus NCSG does not support
2	For <i>Red Cross Red Crescent Movement</i> identifiers, if placed in the Applicant Guidebook as ineligible for delegation at the <b>Top-Level</b> , an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the Top-Level <sup>7</sup>	Consensus NCSG does not support
3	<b>Second-Level</b> protections of only <u>Exact Match, Full Name</u> Scope 1 identifiers of the <i>Red Cross Red Crescent Movement</i> are placed in Specification 5 of the Registry Agreement	Consensus NCSG does not support
4	For <i>Red Cross Red Crescent Movement</i> identifiers, if placed in Specification 5 of the Registry Agreement, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the <b>Second-Level</b> <sup>8</sup>	Consensus NCSG does not support
5	<b>Second-Level</b> protections of only <u>Exact Match, Full Name</u> Scope 2 identifiers of the <i>Red Cross Red Crescent Movement</i> are bulk added as a single list to the Trademark Clearinghouse (TMCH)**	Consensus NCSG supports, but with some opposition within the SG
6	<b>Second-Level</b> protections of only <u>Exact Match, Acronym</u> Scope 2 identifiers of the <i>Red Cross Red Crescent Movement</i> are bulk added as a single list to the Trademark Clearinghouse**	Consensus NCSG supports, but with some opposition within the SG

<sup>6</sup> The RCRC has provided a minority position statement regarding recommendations that did not achieve a level of consensus at the end of this recommendations section.

<sup>7</sup> This recommendation depends on identifiers being reserved. If no support is determined for reservation protection, this recommendation is not required.

<sup>8</sup> This recommendation depends on identifiers being reserved. If no support is determined for reservation protection, this recommendation is not required.

#	Recommendation	Level of Support
	<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> "Red Cross", "Red Crescent", "Red Lion and Sun" and "Red Crystal" (Language: UN6)</li> <li>○ <b>Scope 2 Identifiers:</b> 189 recognized National Red Cross and Red Crescent Societies; International Committee of the Red Cross; International Federation of Red Cross and Red Crescent Societies; ICRC, CICR, CICV, MKKK, IFRC, FICR (Language: in English, as well as in their respective national languages; ICRC &amp; IFRC protected in UN6)***</li> </ul>	
<b>7</b>	<p><i>Red Cross Red Crescent Movement</i> Scope 2 identifiers, if added to the TMCH, allowed to participate in <u>Sunrise</u> phase of each new gTLD launch</p>	<p>Strong Support but Significant Opposition RySG, does not support; NCSG supports, but with some opposition within the SG</p>
<b>8</b>	<p><i>Red Cross Red Crescent Movement</i> Scope 2 identifiers, if added to the TMCH, allowed to participate in <u>90 Day Claims Notification</u><sup>9</sup> phase of each new gTLD launch for <b>Second-Level</b> registrations</p>	<p>Consensus NCSG supports, but with some opposition within the SG</p>

\*\* Because of support to reserve Scope 1 names at the top and second levels, it is not necessary to list Scope 1 names for any of the TMCH recommendations for second level protections.

\*\*\* Scope 2 Identifiers contain both full name and acronyms. The distinction is that Scope 1 identifiers are based on a list provided by GAC advice, while Scope 2 names were additionally requested by the RCRC.

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<sup>9</sup> If IGO-INGO identifiers are to utilize the Claims service, both WG deliberation and public comments noted that a separate claims notice, as distinct from the Trademark notices, may be required.

### 3.2 International Olympic Committee (IOC) Recommendations

#	Recommendation	Level of Support
○ <b>Scope 1 Identifiers:</b> olympic, olympiad (Language: UN6, + German, Greek, and Korean)**		
1	<b>Top-Level</b> protections of <u>Exact Match, Full Name</u> Scope 1 identifiers of the <i>International Olympic Committee</i> are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Consensus ALAC, NCSG do not support
2	For <i>International Olympic Committee</i> Identifiers, if placed in the Applicant Guidebook as ineligible for delegation at the <b>Top-Level</b> , an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the Top-Level <sup>10</sup>	Consensus ALAC, NCSG do not support
3	<b>Second-Level</b> protections of only <u>Exact Match, Full Name</u> Scope 1 identifiers of the <i>International Olympic Committee</i> are placed in Specification 5 of the Registry Agreement	Consensus ALAC, NCSG do not support
4	For <i>International Olympic Committee</i> identifiers, if placed in Specification 5 of the Registry Agreement, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the <b>Second-Level</b> <sup>11</sup>	Consensus ALAC, NCSG do not support

\*\* Note that the IOC did not request protections for acronyms and therefore no recommendations are included within this set.

<sup>10</sup> This recommendation depends on identifiers being reserved. If no support is determined for reservation protection, this recommendation is not required.

<sup>11</sup> This recommendation depends on identifiers being reserved. If no support is determined for reservation protection, this recommendation is not required.

### 3.3 International Governmental Organization (IGO) Recommendations<sup>12</sup>

#	Recommendation	Level of Support
	<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> GAC List<sup>13</sup> (22 March 2013) - Full Name (Language: Up to two languages<sup>14</sup>)</li> <li>○ <b>Scope 2 Identifiers:</b> GAC List (22 March 2013) - Acronym (Language: Up to two languages)</li> </ul>	
1	<b>Top-Level</b> protections of <u>Exact Match, Full Name</u> Scope 1 identifiers of the <i>International Governmental Organizations</i> are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Consensus NCSG does not support
2	For <i>International Governmental Organizations</i> Identifiers, if placed in the Applicant Guidebook as ineligible for delegation at the <b>Top-Level</b> , an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the <b>Top-Level</b> <sup>15</sup>	Consensus ALAC, NCSG do not support
3	<b>Second-Level</b> protections of only <u>Exact Match, Full Name</u> Scope 1 identifiers of the <i>International Governmental Organizations</i> are placed in Specification 5 of the Registry Agreement	Consensus NCSG does not support
4	For <i>International Governmental Organizations</i> identifiers, if placed in Specification 5 of the Registry Agreement, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the <b>Second-Level</b> <sup>16</sup>	Consensus NCSG does not support
5	<b>Second-Level</b> protections of only <u>Exact Match, Acronym</u> Scope 2 identifiers of the <i>International Governmental Organizations</i> are bulk added as a single list to the Trademark Clearinghouse**	Strong Support but Significant Opposition NCSG does not support; IPC only support where acronym is primary identifier for the entity

<sup>12</sup> The IGO coalition has provided a minority position statement regarding recommendations that did not achieve a level of consensus at the end of this recommendations section.

<sup>13</sup> List of IGO Identifiers from GAC Advice: <http://www.icann.org/en/news/correspondence/dryden-to-crocker-chalaby-annex2-22mar13-en.pdf>

<sup>14</sup> The IGO Representatives collaborating with the GAC shall provide a list of the two languages each organization prefers because ICANN may not be in a position to determine which languages to be reserved for each 190+ organizations. UN6 is the standard scope for which ICANN conducts translations.

<sup>15</sup> This recommendation depends on identifiers being reserved. If no support is determined for reservation protection, this recommendation is not required.

<sup>16</sup> This recommendation depends on identifiers being reserved. If no support is determined for reservation protection, this recommendation is not required.

#	Recommendation	Level of Support
	<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> GAC List<sup>13</sup> (22 March 2013) - Full Name (Language: Up to two languages<sup>14</sup>)</li> <li>○ <b>Scope 2 Identifiers:</b> GAC List (22 March 2013) - Acronym (Language: Up to two languages)</li> </ul>	
6	<i>International Governmental Organizations</i> Scope 2 identifiers, if added to the TMCH, allowed to participate in <u>Sunrise</u> phase of each new gTLD launch	Strong Support but Significant Opposition RySG, does not support; NCSG supports, but with some opposition within the SG
7	<i>International Governmental Organizations</i> Scope 2 identifiers, if added to the TMCH, allowed to participate in <u>90 Day Claims Notification</u> <sup>17</sup> phase of each new gTLD launch for <b>Second-Level</b> registrations**	Consensus NCSG, IGOs do not support

\*\* Because of support to reserve Scope 1 names at the top and second levels, it is not necessary to list Scope 1 names for any of the TMCH recommendations for second level protections.

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<sup>17</sup> If IGO-INGO identifiers are to utilize the Claims service, both WG deliberation and public comments noted that a separate claims notice as distinct from the Trademark notices may be required.

### 3.4 International Non-Governmental Organizations (INGO) Recommendations<sup>18</sup>

#	Recommendation	Level of Support
	<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> ECOSOC List<sup>19</sup> (General Consultative Status) (Language: English only)</li> <li>○ <b>Scope 2 Identifiers:</b> ECOSOC List (Special Consultative Status) (Language: English only)</li> </ul> <p><b>***Note, this list of Identifiers are INGOs other than the RCRC and IOC</b> See <a href="http://csonet.org/content/documents/E2011INF4.pdf">http://csonet.org/content/documents/E2011INF4.pdf</a></p>	
1	<b>Top-Level</b> protections of <u>Exact Match, Full Name</u> Scope 1 identifiers of the <i>International Non-Governmental Organizations</i> are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Consensus NCSG, CBUC do not support
2	For <i>International Non-Governmental Organizations</i> Identifiers, if placed in the Applicant Guidebook as ineligible for delegation at the <b>Top-Level</b> , an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the Top-Level <sup>20</sup>	Consensus NCSG does not support
3	For <i>International Non-Governmental Organizations</i> identifiers, if placed in Specification 5 of the Registry Agreement, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the <b>Second-Level</b> <sup>21</sup>	Consensus NCSG does not support
4	<b>Second-Level</b> protections of only <u>Exact Match, Full Name</u> Scope 1 (unless otherwise reserve protected) & Scope 2 identifiers of the <i>International Non-Governmental Organizations</i> are bulk added as a single list to the Trademark Clearinghouse (TMCH) <sup>22</sup>	Consensus NCSG supports, but with some opposition within the SG

<sup>18</sup> Representatives of INGOs have provided a minority position statement regarding recommendations that did not achieve a level of consensus at the end of this recommendations section.

<sup>19</sup> The IRT will need to determine how this list is managed as new organizations enter the list. How will ICANN be notified of changes? How is the protection implemented when an organization's string exceeds 63 characters?

<sup>20</sup> This recommendation depends on identifiers being reserved. If no support is determined for reservation protection, this recommendation is not required.

<sup>21</sup> This recommendation depends on identifiers being reserved. If no support is determined for reservation protection, this recommendation is not required.

<sup>22</sup> The concept of bulk addition into the TMCH was to minimize cost associated with entry and validation. However, the Scope 2 names exceed 2000+ organizations. The IRT will need to determine how contact

#	Recommendation	Level of Support
<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> ECOSOC List<sup>19</sup> (General Consultative Status) (Language: English only)</li> <li>○ <b>Scope 2 Identifiers:</b> ECOSOC List (Special Consultative Status) (Language: English only)</li> </ul> <p><b>***Note, this list of Identifiers are INGOs other than the RCRC and IOC</b> See <a href="http://csonet.org/content/documents/E2011INF4.pdf">http://csonet.org/content/documents/E2011INF4.pdf</a></p>		
5	<i>International Non-Governmental Organizations</i> Scope 2 identifiers, if added to the TMCH, allowed to participate in <u>Sunrise</u> phase of each new gTLD launch	Strong Support but Significant Opposition RySG, does not support; NCSG supports, but with some opposition within the SG
6	<i>International Non-Governmental Organizations</i> Scope 1 (unless otherwise protected) & Scope 2 identifiers, if added to the TMCH, allowed to participate in <u>90 Day Claims Notification</u> <sup>23</sup> phase of each new gTLD launch for <b>Second-Level</b> registrations	Consensus ISPCP support scope 1 only; NCSG support, but with some opposition within the SG

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information required for TMCH forms be acquired and validated for bulk entry. Note that voluntary submission requests into TMCH will require backend validation of eligibility.

<sup>23</sup> If IGO-INGO identifiers are to utilize the Claims service, both WG deliberation and public comments noted that a separate claims notice as distinct from the Trademark notices may be required.



### 3.5 General Recommendations

The following general recommendations are not attributed to any particular organization seeking protection, but rather they are presented to apply to all organizations seeking protection as applicable.

#	Recommendation	Level of Support
1	<b>Top-Level</b> protections of Exact Match, Acronym identifiers are placed in Applicant Guidebook section 2.2.1.2.3, of the Applicant Guidebook, Strings "Ineligible for Delegation"	Consensus Against <sup>24</sup> (refer to rec#4) IGO supports <sup>25</sup> ; BC Supports for RCRC
2	<b>Second-Level</b> protections of Exact Match, Acronym identifiers are placed in Specification 5 of Registry Agreement	Consensus Against (refer to rec#4) IGO supports
3	The WG 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.	Consensus NCSG supports, but with some opposition within the SG
4	The WG recommends that the GNSO Council task the Standing Committee on Improvements (SCI) to review the Consensus levels as defined in the Working Group Guidelines <sup>26</sup> .	Full Consensus

<sup>24</sup> It was decided that this level of designation be used for recommendations 1 & 2 because a specific action will be required to remove acronyms of RCRC and IGO identifiers from the current Specification of 5 of the new gTLD Registry Agreement.

<sup>25</sup> The WG participants that supported this proposal represent a number of additional IGOs that favor this position; for further reference, see the IGO's Minority Statement in section 3.9.4

<sup>26</sup> This WG experienced a possible limitation in the currently defined Consensus Levels when assigning "Divergence" to recommendations regarding acronym protections (see recs. #1 and #2 of the General Recommendations now assigned with "Consensus Against"). The use of "Divergence" did not adequately represent the lack of support for the proposed recommendation when said recommendation was stated in the affirmative, for example "Do you support..?". The Chair was equally concerned about not adhering to current Working Group Guidelines could introduce risk to the process, because "Consensus Against" is not formally defined. Note this recommendation for an SCI review was not part of the formal consensus call within the WG, but full support was determined via WG conference calls.

### **3.6 Unsupported Proposals**

The following protection proposals did not achieve a sufficient level of support among the WG (i.e., did not receive at least ‘strong support with significant opposition’). A rationale is provided for each.

On the next few pages, the proposals listed per organization seeking protection were originally used during the consensus call and did not receive adequate support to submit as a recommendation. Essentially, any of the proposals that refer to acronym protection are addressed within the first and second General Recommendations (#1 & #2) in Section 3.5. They are placed here as an aid to consider all the protections considered for each organization. The IOC is not listed because their set of recommendations received consensus levels of support.

**Red Cross Red Crescent Movement:**

#	Proposal	Level of Support
	<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> "Red Cross", "Red Crescent", "Red Lion and Sun" and "Red Crystal" (Language: UN6)</li> <li>○ <b>Scope 2 Identifiers:</b> 189 recognized National Red Cross and Red Crescent Societies; International Committee of the Red Cross; International Federation of Red Cross and Red Crescent Societies; ICRC, CICR, CICV, MKKK, IFRC, FICR (Language: in English, as well as in their respective national languages; ICRC &amp; IFRC protected in UN6)***</li> </ul>	
1	<p><b>Top-Level</b> protections of <u>Exact Match, Full Name</u> Scope 2 identifiers of the <i>Red Cross Red Crescent Movement</i> are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"</p>	<p>Divergence<sup>27</sup></p> <p>The WG had established the eligibility criteria as based on the GAC advice and thus defined the the Scope 2 names which were not included within GAC advice</p>
2	<p><b>Top-Level</b> protections of <u>Exact Match, Acronym</u> Scope 2 identifiers of the <i>Red Cross Red Crescent Movement</i> are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"</p>	<p>Divergence</p> <p>ISO, ALAC, RySG, NCSG, IPC, ISPCP do not support</p> <p>Addressed via 3.5 General Recommendations #1&amp;2 with "Consensus Against" on reservation protections of acronyms at top and second levels.</p>
3	<p><b>Second-Level</b> protections of only <u>Exact Match, Full Name</u> Scope 2 identifiers of the <i>Red Cross Red Crescent Movement</i> are placed in Specification 5 of the Registry Agreement</p>	<p>Divergence<sup>28</sup></p> <p>The WG had established the eligibility criteria as based on the GAC advice and thus defined the the Scope 2 names which were not included within GAC advice</p>

<sup>27</sup> This specific recommendation was not a part of the formal consensus call because consensus was gauged from a general recommendation on acronyms and scope 2 identifiers.

<sup>28</sup> This specific recommendation was not a part of the formal consensus call because consensus was gauged from a general recommendation on acronyms and scope 2 identifiers.

#	Proposal	Level of Support
	<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> "Red Cross", "Red Crescent", "Red Lion and Sun" and "Red Crystal" (Language: UN6)</li> <li>○ <b>Scope 2 Identifiers:</b> 189 recognized National Red Cross and Red Crescent Societies; International Committee of the Red Cross; International Federation of Red Cross and Red Crescent Societies; ICRC, CICR, CICV, MKKK, IFRC, FICR (Language: in English, as well as in their respective national languages; ICRC &amp; IFRC protected in UN6)***</li> </ul>	
4	<p><b>Second-Level</b> protections of only <u>Exact Match</u>, <u>Acronym</u> Scope 2 identifiers of the <i>Red Cross Red Crescent Movement</i> are placed in Specification 5 of the Registry Agreement</p>	<p>Divergence ISO, ALAC, RySG, NCSG, IPC, ISPCP do not support</p> <p>Addressed via 3.5 General Recommendations #1&amp;2 with "Consensus Against" on reservation protections of acronyms at top and second levels.</p>

**International Governmental Organizations:**

#	Proposal	Level of Support
<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> GAC List<sup>29</sup> (22 March 2013) - Full Name (Language: Up to two languages)</li> <li>○ <b>Scope 2 Identifiers:</b> GAC List (22 March 2013) - Acronym (Language: Up to two languages)</li> </ul>		
1	<p><b>Top-Level</b> protections of <u>Exact Match, Acronym</u> Scope 2 identifiers of the <i>International Governmental Organizations</i> are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"</p>	<p>Divergence ISO, ALAC, RySG, NCSG, IPC, ISPCP, CBUC do not support</p> <p>The WG determined that reservation of acronyms would grant a right superior to that of non-governmental organizations or individuals.</p>
2	<p><b>Second-Level</b> protections of only <u>Exact Match, Acronym</u> Scope 2 identifiers of the <i>International Governmental Organizations</i> are placed in Specification 5 of the Registry Agreement</p>	<p>Divergence ISO, ALAC, RySG, NCSG, IPC, ISPCP, CBUC do not support</p> <p>The WG determined that reservation of acronyms would grant a right superior to that of non-governmental organizations or individuals.</p>

<sup>29</sup> List of IGO Identifiers from GAC Advice: <http://www.icann.org/en/news/correspondence/dryden-to-crocker-chalaby-annex2-22mar13-en.pdf>

**International Non-Governmental Organizations:**

#	Proposal	Level of Support
<ul style="list-style-type: none"> <li>○ <b>Scope 1 Identifiers:</b> ECOSOC List (General Consultative Status) (Language: English only)</li> <li>○ <b>Scope 2 Identifiers:</b> ECOSOC List (Special Consultative Status) (Language: English only)</li> </ul> <p><b>***Note, this list of Identifiers are INGOs other than the RCRC and IOC</b>                      See <a href="http://csonet.org/content/documents/E2011INF4.pdf">http://csonet.org/content/documents/E2011INF4.pdf</a></p>		
1	<p><b>Top-Level</b> protections of <u>Exact Match, Full Name</u> Scope 2 identifiers of the <i>International Non-Governmental Organizations</i> are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"</p>	Divergence <sup>30</sup>
2	<p><b>Second-Level</b> protections of only <u>Exact Match, Full Name</u> Scope 1 identifiers of the <i>International Non-Governmental Organizations</i> are placed in Specification 5 of the Registry Agreement</p>	Divergence RySG, NCSG, IPC do not support
3	<p><b>Second-Level</b> protections of only <u>Exact Match, Full Name</u> Scope 2 identifiers of the <i>International Non-Governmental Organizations</i> are placed in Specification 5 of the Registry Agreement</p>	Divergence <sup>31</sup>
4	<p><b>Second-Level</b> protections of only <u>Exact Match, Acronym</u> Scope 1 (unless otherwise protected) &amp; Scope 2 identifiers of the <i>International Non-Governmental Organizations</i> are bulk added as a single list to the Trademark Clearinghouse</p>	<p>Divergence RySG, IPC, ISPCP do not support; NCSG supports, but with some opposition within SG</p> <p>The WG had established the eligibility criteria as based on the GAC advice and thus defined the Scope 2 names which were not included within GAC advice</p>

<sup>30</sup> This specific recommendation was not a part of the formal consensus call because consensus was gauged from a general recommendation on acronyms and scope 2 identifiers.

<sup>31</sup> This specific recommendation was not a part of the formal consensus call because consensus was gauged from a general recommendation on acronyms and scope 2 identifiers.

**Alternative Qualification Criteria for INGOs (not including RCRC and IOC) that was considered but not adopted by the WG:**

The following criteria were considered as possible qualification criteria for INGOs which can demonstrate being granted privileges, immunities, or other protections in law on the basis of their quasi-governmental international status, public missions and legal protection for their names.

While there was some support, the WG did not adopt these criteria. Some reasons included issues of potential subjectivity and the need for case-by-case evaluation.

1. The INGO benefits from some privileges, immunities or other protections in law on the basis of the INGO's proven (quasi-governmental) international status;
2. The INGO enjoys existing legal protection (including trademark protection) for its name/acronym in over 50+ countries or in three (of five) ICANN regions or alternatively using a percentage: more than 50% of the countries;
3. The INGO engages in recognized global public work shown by:
  - a. inclusion on the General Consultative Status of the UN ECOSOC list, or
  - b. membership of 50+ national representative entities, which themselves are governmental/ public agencies or non-governmental organizations that each fully and solely represent their respective national interests in the INGO's work and governance.

**General Proposals:**

#	Proposal	Level of Support
1	IGO-INGO organizations be granted a fee waiver (or funding) for objections filed against applied-for gTLDs at the Top-Level	<p>Divergence RySG, IPC, ISPCP, BC do not support; NCSG supports, but with some opposition with the SG</p> <p>In general, opposition to this proposal recognized that the GAC will be able to file objections on behalf of IGOs, RCRC and IOC. It was also determined that if fee waivers were granted, other stakeholders will still subsidize the cost.</p>
2	Fee waivers or reduced pricing (or limited subsidies) for registering into the Trademark Clearinghouse the identifiers of IGO-INGO organizations	<p>Divergence IGO, ALAC, RySG, IPC, ISPCP do not support; NCSG Support, but with opposition</p> <p>The support for the recommendation(s) to bulk-add protected organizations into the TMCH reduced the need for this recommendation. Further, subsidy of pricing extended an additional right over other TMCH participants.</p>
3	IGO-INGOs allowed to participate in <u>permanent Claims Notification</u> <sup>32</sup> of each gTLD launch	<p>Divergence IGO, ALAC, RySG, NCSG, IPC, ISPCP do not support</p> <p>Many members of the WG felt that extending permanent claims protections to IGO-INGOs granted additional rights.</p>

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<sup>32</sup> Present TMCH implementation of the Claims Notification service is defined to last for at least a 90 day period. WG deliberations considered, but eventually reject the notion of a permanent notification service to compensate where a reserved name protection may not be granted. Permanent notification is defined as a notification services that exists indefinitely.



#	Proposal	Level of Support
4	Fee waivers or reduced pricing for IGO-INGOs filing a URS or UDRP action	<p>Divergence ALAC, RySG, IPC, ISPCP do not support; NCSG supports, but with some opposition within SG</p> <p>Subsidy of pricing extended an additional right over other TMCH participants.</p>

### 3.7 Implementation Considerations of Recommendations on Incumbent gTLDs

This section suggests some implementation principles for gTLDs delegated prior to 2012 if there are any consensus policies approved from this PDP.

#### From IGO-INGO Charter:

“...determine how incumbent registries should meet the new policy recommendations, if any.”

#### Scope and Assumptions:

- Existing gTLDs Only (Delegation pre-2012)
- Only second-level proposed protection recommendations apply
- Assumes that the present WG recommendations are supported and adopted for new gTLDs

#### Principles of Implementation:

- Any policies adopted for new gTLDs shall apply equally to existing gTLDs to the extent they are relevant (for example second-level IGO-INGO protections utilizing TMCH, sunrise, claims will not apply) and do not infringe on the existing rights of others.
- An Implementation Review Team (IRT) should be formed to collaborate as required with ICANN staff and the GNSO Community to implement applicable consensus policies for incumbent gTLDs.
- For clarification purposes, second-level names matching a protected identifier, as identified via any consensus policies defined here, and that are not registered within an existing gTLD, shall be immediately reserved from registration in the same manner as for new gTLDs.
- Due to the time lag between the date the Working Group and GNSO Council adopts recommendations, if any, and the date the recommendations are implemented, there is a possibility of front-running, whereby some identifiers not previously registered could be registered by parties before the policy is in effect. A mechanism to guard against front-running should be defined, such as establishing the date these recommendations were adopted by the Working Group or GNSO Council as the measurement date that determines how a domain name matching a protected identifier is treated.
- A second-level registration within an existing gTLD that matches a protected identifier, as identified via any consensus policies defined here, and the registration of said name, if registered prior to implementation of protections or any such cutoff date as may be determined, shall be handled like any existing registered name within the incumbent gTLD regarding renewals, transfers, sale, change of registrant, etc.
- If a second-level name that matches a protected identifier, as identified via any consensus policies defined here becomes eligible where the last Registrant is not involved in any subsequent ownership change, the name shall not be eligible for registration or transfer and become immediately reserved. At the time the name completes eligible grace periods and becomes eligible for deletion, the name shall not be reallocated by the Registry and shall be deemed ineligible for registration per the defined policy.

- Where policy changes to recover protected identifiers of registered second-level names within an existing gTLD deviate from current policy, registry & registrar indemnification should be considered.
- For clarification purposes, second-level names matching a protected identifier that are also registered by a party other than the protected organization and bad faith use vis-à-vis the protected organization is suspected, the protected organization may have access to RPMs like the UDRP, pending a PDP to address how the IGO-INGO organizations may access RPMs.

### 3.8 Proposed Options for Exception Procedure

The WG developed two high-level options for exception procedures that are not necessarily mutually exclusive and requested feedback on these options in the public comment period.

#### Option 1

**Goal:** Where a potential registrant claims a legitimate interest in a second-level domain name that is reserved from registration in the Registry Agreement, the goal is to provide a procedure for determining whether the application should proceed to registration<sup>33</sup>.

**General Principles** - The procedure must:

- Provide immediate notification to the applicant and the protected organization when a registration request is refused registration because an identifier is protected;
- Provide a channel of communication between the applicant and the protected organization, including for purposes of any assessment an agreement which may be forthcoming from the protected organization itself at first instance;
- Provide an objective, expeditious, and inexpensive process for determining if the applicant has a legitimate interest so that its registration request can proceed to registration;
- Use existing dispute resolution procedures where possible.

#### **Outline of Proposed Procedure:**

##### **1. Notification of Conditional Refusal Based on Protected Name.**

The potential registrant and protected organization will receive immediate electronic notification if an applied-for second level domain is conditionally refused registration because of a Protected Name on a Modified Reserved list or in the Clearinghouse if applicable.

##### **2. Declaration of Legitimate Use.**

Each protected organization must record and maintain accurate contact information with the Clearinghouse (or other coordinating body) designating a recipient and email address to be notified electronically.

- Within ten (10) days of receiving a conditional refusal, an applicant may file a declaration with the Registry. The declaration must identify the potential registrant accurately, provide accurate contact information, and state that the potential registrant has a good faith, legitimate interest in using the domain name that does not violate any treaties, national

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<sup>33</sup> Some members have expressed concern with the operability of process-heavy exemption procedures that may have a great potential to impede rights and legitimate interests unduly. Further, misuse of licensing opportunities could be a potential issue as well.

laws or other legal entitlement of the protected organization. A standard form will be provided. The protected organization will receive a copy of the declaration electronically at its given address when the declaration is filed with the Registry.

- If, within ten (10) days after receipt of the above declaration, the protected organization does not file an objection with the Registry, the subject application will proceed to registration.
- If, within ten (10) days after receipt of the above declaration, the protected organization files an objection with the Registry, the conditional refusal will be reviewed by an independent examiner (definition and implementation still to be considered).

### **3. Examination.**

The examination procedure must comply with the principles above. It must:

- Be objective;
- Give both parties the opportunity to be heard;
- Be expeditious; and
- Be inexpensive; and
- Use existing processes whenever possible.

#### **Option 2**

**Goal:** Where a potential registrant claims a legitimate interest in a second-level domain name that is reserved from registration in the Registry Agreement, the goal is to provide a procedure for determining whether the application should proceed to registration.

**General Principles:** The procedure must:

- Provide immediate notification to the potential registrant and the protected organization when a registration request is refused registration because a name is protected;
- Provide a channel of communication between the potential registrant and the protected organization, including for purposes of any assessment an agreement which may be forthcoming from the protected organization itself at first instance;
- Provide an objective, expeditious, and inexpensive process for determining if the applicant has a legitimate interest so that its registration request can proceed to registration;
- Use existing dispute resolution procedures where possible.

#### **Outline of Proposed Procedure:**

An entity with a name in the Clearinghouse Model could be allowed to register that name if the entity committed to prevent confusion with the corresponding protected IGO/INGO identifier.

## 4. Deliberations of the Working Group

The Protection of IGO and INGO Identifiers in all gTLDs WG began its deliberations on 31 October 2012 by reviewing the WG Charter which is included in Annex 1 of this report. The team also prepared a work plan<sup>34</sup>, which was reviewed on a regular basis. It outlines key deliverable work products used in research and analysis of the issues defined in the charter as well as how charter issues were handled. In order to facilitate the work of the constituencies and stakeholder groups, a template was developed that was used to provide input in response to the request for constituency and stakeholder group statements (see Annex 3). This template was also used to solicit input from other ICANN Supporting Organizations and Advisory Committees early on in the process. Section 5 of this report provides the community input responses and a short summary.

### 4.1 Initial Fact-Finding and Research

In addition to soliciting community input, the WG formed five sub-teams to conduct an analysis of the nature of the problem, qualification criteria, eligibility process, admissions, and protections. A matrix<sup>35</sup> was developed to document the attributes of each analysis with comparisons across the four groups of organizations (i.e., IGOs, RCRC, IOC, and other INGOs) seeking protection. In addition, ICANN's General Counsel Office (GCO) was requested to research and report whether it is aware of possible legal prohibitions with respect to registration of domains using the identifiers of these organizations. The next five sub-sections will provide details of each sub-team's findings followed by a summary from the GCO.

#### 4.1.1 Nature of the Problem

This sub-team's task was to review the specific problems that would be addressed if any protections were to be implemented. Sub-topics reviewed included costs of combating infringement and abuse, infringement on public good, discussion of existing Rights Protection Mechanisms (RPMs) and/or due process in applicable law. In principle, it is understood by all WG members that use of domain

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<sup>34</sup> IGO-INGO WG Work Plan: <https://community.icann.org/display/GWGTCT/Work+Plan+Drafts>

<sup>35</sup> Analysis Matrix: <https://community.icann.org/display/GWGTCT/IGO-INGO+Work+Package+Drafts>

names with malicious intent is a recognized problem within the DNS. However, views on the degrees of harm suffered by the organizations seeking protection varied in the WG's deliberations. One view discussed whether such harm needed to be first proved prior to granting any protections or whether it was sufficient to only presume harm. Conversely, views were expressed that whether the harms exists is not relevant, but when harm is detected, resources that would otherwise be earmarked for an organization's public interest mission are otherwise diverted to deal with such harm.

As mandated by the Charter and in order to provide more information to aid the WG's deliberations for this issue of establishing qualification criteria for special protection of international organization identifiers, the WG asked representatives from the IOC, RCRC and IGOs to provide evidence of abuse of their respective organization's identifiers by third-party domain name registrations. A series of content sources came from prior policy reports, direct submissions from organizations seeking protection and WG analysis tools. Links to the submissions reviewed can be found at the IGO-INGO Wiki Page<sup>36</sup>. Concurrently, ICANN staff also compiled a sampling of domain name registrations<sup>37</sup> of RCRC, IOC and IGO identifiers.

#### 4.1.2 Qualification Criteria

The Qualification Criteria (QC) sub-team reviewed qualitative and quantitative attributes of how organization(s) may qualify for protections of their respective identifiers. Such attributes include how the organizations in question are protected by treaty or national law, and whether the quantity of jurisdictions providing protection had relevance to the scope and limitations of protection mechanisms. Access to current RPMs, not-for-profit status, nature of public mission, and duration of existence were other attributes explored.

The overall intent of the WG was to establish a set of objective criteria that was also stringent enough to appropriately limit the number of organizations that may qualify. WG deliberations

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<sup>36</sup> Abuse evidence: <http://community.icann.org/pages/viewpage.action?pageId=40931994>

<sup>37</sup> Sampling of registrations: <http://community.icann.org/display/GWGTCT/IGO-INGO+Registration+Evaluation+Tool>

regarding qualification criteria confirmed that it was not possible to develop a single set of criteria applicable to all four types of organizations that most WG members would support. While being different from each other in many respects, the IOC and RCRC may be differentiated from other INGOs on the basis of the unique legal protections they and their respective designations are afforded under a framework of international treaties and national laws in multiple jurisdictions. IGOs have been differentiated from INGOs on the basis of the types of legal protections they are afforded.

With the GAC's advice in its Beijing Communiqué, the scope of special protections for IGOs combined with the special protections previously provided to the IOC and RCRC became much more defined. However, as of the date of the Beijing Communiqué, the issue of possible special protections for INGOs other than the RCRC and IOC had not been addressed outside of the PDP WG and so, as mandated by the WG Charter, it was deliberated on. Entry on the Economic and Social Council (ECOSOC) list was the latest criterion considered for recommendations by the WG; all alternatives are provided later in this report.

#### **4.1.3 Eligibility Process**

The Eligibility Process sub-team sought to delineate and understand who would be tasked with determining whether an organization seeking special protections would meet the specified qualification criteria, and how this process would take place. Initial discussions leaned toward a neutral entity that would make such determinations, but the sub-group again stressed the importance of an objective set of qualification criteria. Ultimately it was determined, eligibility for protections was tightly coupled with qualification criteria and, if any special protections were to be implemented, likely exception procedures would have to be created.

#### **4.1.4 Admissions**

Essentially, the Admissions sub-team was tasked to determine if additional criteria to be afforded protections were needed after an organization met the qualification criteria and eligibility checks. Deliberations among the sub-team revealed the challenge of balancing various criteria versus categories of criteria defined in the previous sections. The sub-team concluded that admissions are



tightly coupled to qualification criteria and the eligibility process and noted this distinction was not necessary.

#### 4.1.5 Protections

The last sub-team was formed to review the types of protections that may be available to IGOs and INGOs. The following preventative and curative protection mechanisms were reviewed:

- Reserved Names list: is classified as a preventative mechanism whereby predetermined strings are placed on a list from which no such string is available for registration. Existing registry agreements have varying rules of reservation within the Schedules of Reserved Names. The New gTLD Registry Agreement contains a Specification 5, also titled “Schedule of Reserved Names,” that was established as a reserved names template for the large quantity of new gTLDs anticipated for delegation. With respect to reservations at the top-level, the Applicant Guidebook also contains a series of strings that are reserved or ineligible for delegation.
- Modified Reserved Names list: is essentially the same as the Reserved Names list mentioned above, however, an exemption procedure at both the top and second levels may be required to allow for registration by the organization seeking protection or a legitimate rights holder to the same string. The nomenclature of “Modified Reserved Names list” is a concept not currently implemented as it is used in this context. However, for the gTLDs that are already delegated and that have a Schedule of Reserved Names, the Registry Services Evaluation Process (RSEP) can be utilized to gain approval for allowing registration of a string, resulting in this modified list. Additionally, existing registry agreements have an exception procedure for 2-character second-level names, which also utilizes the RSEP.
- Trademark Clearinghouse, Sunrise, and Claims: are a series of new Rights Protection Mechanisms (RPMs) designed for the New gTLD Program. They are viewed as preventative measures in protecting word marks. These are currently being implemented to support second-level registration of strings upon a new gTLD’s delegation. Note that as part of the recommendation options presented in this Initial Report, the term “Clearinghouse Model” is used in the context of the likely need for similar features of the TMCH, but also available for use by IGOs and INGOs that typically do not have registered trademark names.

- UDRP and URS: Uniform Dispute Resolution Process (UDRP) and Uniform Rapid Suspension (URS) are additional RPMs that are considered curative measures and used only after the registration of a domain name. Both RPM mechanisms will be available with the new gTLDs.
- Do not sell lists: contain names blocked from registration according to the internally defined policy of the Registry Operator of a given gTLD. Some applicants are choosing to deploy additional protections for certain types of names, but only as defined by their respective Registry policies.
- Limited Preventative Registrations: a proposed mechanism that has been considered for trademark owners to prevent second-level registration of their marks (exact matches, plus character strings previously determined to have been abusively registered or used) across all gTLD registries, upon payment of a reasonable fee, with appropriate safeguards for registrants with a legitimate right or interest.

#### **4.1.6 Summary of ICANN's General Counsel's Office Survey**

Parallel with the activities mentioned above, the Charter required the WG to evaluate the scope of existing protections under international treaties and national laws for IGO, INGO, RCRC and IOC Names. In order to do so, the 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:

- a) the assignment by ICANN at the top level, or
- b) 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 (INGO) receiving protections under treaties and statutes under multiple jurisdictions

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.

Eleven jurisdictions from around the globe were surveyed, representing jurisdictions from all five ICANN geographic regions. The trend found in the General Counsel's Research Report is that "there are few, if any, jurisdictions sampled that have specific laws addressing ICANN, a registry or a registrar's role in the delegation of top-level domains or in the registration of second-level domains.

Only one jurisdiction (Brazil) was found to have a statute that placed a direct prohibition on the registration of IOC- or FIFA-related domain names, though the roles of gTLD registries/registrar are not specifically identified in the statute. However, the fact that statutes do not directly mention domain names cannot be taken to mean that ICANN, a registry or a registrar is exempt from liability if there is an unauthorized delegation at the top-level or registration at the second-level of a domain name using the name or acronym of the International Olympic Committee (IOC), the Red Cross/Red Crescent movement (RCRC), or Intergovernmental Organizations (IGOs) that are provided protection within each jurisdiction.”

The research also found that, “nearly all of the sampled jurisdictions (representing all ICANN geographic regions) provide protections to the IOC and/or the RCRC for the use of their names and acronyms, and those protections are often understood to apply to domain names. The exact terms that are protected in each jurisdiction vary. While it appears rare (other than in the case of Brazil) to have a specific prohibition for domain name registration enumerated, there does seem to be potential bases for challenges to be brought with respect to domain name registration, including potential challenges to registry operators or registrars for their roles in the registration chain.”

“For the names and acronyms of IGOs, ICANN’s research focused on whether any special status afforded to those names and acronyms by virtue of the protection granted by Article 6ter(1)(b) of the Paris Convention could serve as a basis for liability. While this focus of research may not identify if there are individual IGOs for which a country has elected to provide heightened protections (outside of their 6ter status), this research provides insight to the status afforded to IGOs that can be objectively identified by virtue of their inclusion on the 6ter list. Many countries afford special protection to those IGOs listed on the 6ter, though there is often a registration, notice process, or member state limitation required through which each jurisdiction develops a list of the specific IGOs that it will recognize for protection. Therefore, among the jurisdictions where IGOs are provided heightened protection, the list of IGOs eligible for protections may not be uniform. With regard to our research related to IGOs and INGOs other than the RCRC and IOC, the research did not identify any universal protections that could be made applicable for IGOs or INGOs.”

“In nearly every jurisdiction, whether or not special protection exists for the IOC, RCRC or IGOs, there always remains the possibility that general unfair competition or trademark laws can serve as

a basis for challenge to a specific delegation of a top-level name or the registration of a second-level domain name at any level of the registration chain.”

A copy of the General Counsel’s Research Report is included in Annex 5.

## **4.2 Working Group Charter Deliberations**

### **Charter Issue 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 the following types of international organizations:

International Governmental Organizations (IGOs) protected by international law and multiple domestic statutes, International Non-Governmental Organizations (INGOs) receiving protections under treaties and statutes under multiple jurisdictions, specifically including the Red Cross/Red Crescent Movement (RCRC), and as the International Olympic Committee (IOC). In deliberating this issue, the WG should consider the following elements:

- Quantifying the Entities to be Considered for Special Protection
- Evaluating the Scope of Existing Protections under International Treaties/National 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

This issue was first addressed by the request for legal research as noted in Section 4.1 and Annex 5. Secondly, the WG performed the critical task of reviewing the qualification criteria which is documented in the work package mentioned in Section 4.1. It became evident from the WG deliberations that it was not possible to develop a single framework of qualification criteria that most of the WG would support given the different nature of IGOs, the RCRC, IOC and other INGOs. Further, the WG determined that the IOC and RCRC did differ from other INGOs given their unique legal standing compared to other INGOs. The scope of the qualification criteria for IGOs became defined and quantified by the list of IGO organizations eligible for protection submitted by the GAC; and for the RCRC and IOC by both the GAC’s and ICANN Board’s recognition of the international

legal protections for the IOC and RCRC. Conversely, as noted in the proposed recommendations, other INGO organizations have a set of proposed qualification criteria that relate to the ECOSOC list.

## Charter Issue 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. Specifically, the PDP WG should:

- 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 the appropriate special protections for these names.
- Develop specific recommendations for appropriate special protections for the names and acronyms of all other qualifying international organizations.

This charter issue has been addressed by the WG's creation and deliberation about the issues identified in the IGO-INGO Protection Matrix tool<sup>38</sup> and using other work products which can be found on the ICANN Wiki. Details of the proposed recommendation options can be found in Sections 5 below.

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<sup>38</sup> IGO-INGO Protection Matrix: <https://community.icann.org/display/GWGTCT/IGO-INGO+Protections+Matrix>

## 5. Background

This section contains a sequential description of the key events of the IGO-INGO WG. For a detailed background and history of the issue prior to the initiation of this PDP, please see the Final GNSO Issue Report on the Protection of International Organization Names in New gTLDs<sup>39</sup> (“Final Issue Report”). The Issue Report was initiated as a result of a recommendation by a 2012 Drafting Team formed to provide a GNSO response to the GAC request on the Protection of IOC and RCRC names<sup>40</sup>. After community review, the scope of the Final Issue Report included an evaluation of whether to protect the names of both intergovernmental and non-governmental organizations at the top level and second level in all gTLDs.

Upon receiving the Final Issue Report, the GNSO Council approved a motion to initiate a Policy Development Process for the protection of certain International Organization Names in all gTLDs. The PDP Working Group was formed 31 October 2012 and its Charter was approved by the GNSO Council on 17 November 2012.<sup>41</sup>

At its 26 November 2012 meeting, the ICANN Board’s New gTLD Program Committee (“NGPC”) adopted a resolution to protect, on an interim basis, certain IGO names and acronyms based on .int registration criteria at the second level of the initial round of new gTLDs, by including these names on the Reserved Names list; and for the GNSO to continue its policy development efforts on the protection of IGO names. It also requested advice from the GNSO Council about whether to include second-level protections for certain IGO names and acronyms by inclusion on a Reserved Names List as presented in section 2.2.1.2.3 of the Applicant Guidebook for the initial round of new gTLDs.<sup>42</sup>

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<sup>39</sup> Final Issue Report: <http://gns0.icann.org/en/node/34529>. Further background information in this regard may be found in the various submissions made to the Working Group by various IGOs, the IOC and the RCRC

<sup>40</sup> IOC / RCRC Protection DT Archive: <http://gns0.icann.org/en/group-activities/active/ioc-rcrc>

<sup>41</sup> The GNSO Council Resolution for IGO-INGO PDP initiation:  
<http://gns0.icann.org/en/council/resolutions#20121017-2>

<sup>42</sup> The ICANN Board Resolution and Rationale for the Protection of IGO names are posted at:  
<http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-26nov12-en.htm>

At the same meeting, the NGPC also adopted a resolution regarding the protection of RCRC and IOC names. The NGPC resolved that restrictions on the registration of RCRC and IOC names for new gTLDs at the second level (i.e., the IOC and RCRC names listed in the Reserved Names List under section 2.2.1.2.3 of the Applicant Guidebook applicable in all new gTLD registries approved in the first round of the New gTLD Program) will be in place until such time as a policy is adopted that may require further action.<sup>43</sup>

On 20 December 2012, the GNSO Council adopted a resolution accepting the Drafting Team's recommendation to provide special protection for RCRC and IOC names at the second level of the initial round of new gTLDs in a manner consistent with the Board resolution to protect such names.<sup>44</sup>

In response to the ICANN Board's request for advice on the protection of IOC/RCRC names, on 31 January 2013 the GNSO Council Chair sent a letter with its advice on this issue<sup>45</sup> to the ICANN Board and GAC. Although the GNSO Council did not dispute the advice provided by the GAC, it also recognized that the issue exceeded the scope of implementation by ICANN and required further policy development for a long-term approach/solution.

On 28 February 2013, the GNSO Council sent a letter<sup>46</sup> to the ICANN Board in response to the Board's request for advice on the temporary protection of IGO and INGO names in the first round. The GNSO Council made reference to the temporary protections of the IOC and RCRC names, and noted that the IGO-INGO PDP WG had not completed its work. The letter also noted a minority position that the global public interest could possibly be harmed by such temporary protections for IGO identifiers. The Council advised that the Working Group assigned to this issue will maintain its

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<sup>43</sup> The ICANN Board Resolution and Rationale for the Protection of IOC/RCRC names are posted at: <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-26nov12-en.htm#1>

<sup>44</sup> The GNSO Council Resolution for the Protection of IOC/RCRC names: <http://gns0.icann.org/en/council/resolutions#201212>

<sup>45</sup> GNSO Council letter of advice to the ICANN Board and GAC: <http://gns0.icann.org/en/correspondence/robinson-to-dryden-31jan13-en.pdf>

<sup>46</sup> GNSO Council letter of advice to the ICANN Board: <http://gns0.icann.org/en/correspondence/robinson-to-crocker-chalaby-28feb13-en.pdf>

sense of urgency to develop policy recommendations which the GNSO can provide to the ICANN Board with respect to the protection of names and identifiers of IGOs.

On 22 March 2013, the GAC submitted to the Board a list of 195 IGO names and acronyms to be protected at the second level in the first round of new gTLDs, and also indicated that the scope of languages for the names and acronyms to be protected remained to be determined.<sup>47</sup>

During the ICANN Board/GAC joint session on 9 April 2013 in Beijing, the Board flagged a number of issues still to be addressed with regard to the protection of IGO identifiers, including languages to be protected and the mechanism envisaged for any periodic review of the list. The Board also expressed concern that certain acronyms listed for special protection include common words, trademarked terms, acronyms used by multiple organizations, and acronyms that are problematic for other reasons. The Board requested that the GAC clarify its advice with regard to the specific languages to be protected and the mechanism envisaged for any periodic review of the list, and flagged for consideration the issue of acronyms for which there may be competing claims. The Board indicated that clarification would be required to permit the Board to implement the GAC advice.<sup>48</sup>

In its 11 April 2013 Beijing GAC Communiqué, the GAC reiterated 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,” and noted that it “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.”

With regard to the RCRC and IOC names, the GAC advised the ICANN Board to amend the provisions

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<sup>47</sup> See Letter and Annexes from Heather Dryden to Steve Crocker and Cherine Chalaby:  
<http://www.icann.org/en/news/correspondence/dryden-to-crocker-chalaby-22mar13-en>  
<http://www.icann.org/en/news/correspondence/dryden-to-crocker-chalaby-annex1-22mar13-en.pdf>  
<http://www.icann.org/en/news/correspondence/dryden-to-crocker-chalaby-annex2-22mar13-en.pdf>

<sup>48</sup> See Letter from Steve Crocker to Heather Dryden on IGO Name Protection:  
<http://www.icann.org/en/news/correspondence/crocker-to-dryden-01apr13-en.pdf>



in the new gTLD Registry Agreement pertaining to the IOC/RCRC names to confirm that the protections will be made permanent prior to the delegation of any new gTLDs<sup>49</sup>. The New gTLD Program Committee accepted the GAC advice. The proposed final version of the Registry Agreement, adopted 2 July 2013, included protection for an indefinite duration for IOC/RCRC names. Specification 5 of the Registry Agreement includes a list of names (provided by the IOC and RCRC Movement) that "shall be withheld from registration or allocated to Registry Operator at the second level within the TLD."

On 14 June 2013, the IGO-INGO Working Group submitted its Initial Report<sup>50</sup> on the protection of IGO-INGO identifiers for a 42 day public comment period. While the Working Group (WG) received several comments on the topic of protections for certain organizations, all the contributions received were from members of the IGO-INGO WG and as such the nature of those comments had already been discussed within the WG. The WG agreed that a review of the submissions, as shown in the public comment review tool, did not add new information to what was already considered by the members. Further, the Initial Report did not contain any formal policy recommendations and it was understood that a public comment period would be opened for the draft Final Report. Therefore, no summary of comments was provided for the IGO-INGO Initial Report. For an accurate reflection of positions submitted by WG members, please see their response in the archive.<sup>51</sup>

In parallel to the public comment period for the Initial Report, the IGO-INGO WG hosted two face-to-face sessions in Durban for the ICANN 47 meeting (mid-July 2013). These WG meetings were used to discuss issues uncovered since the submission of the Initial Report and to also prepare for a session which utilized professional facilitators to conduct a planned interactive session to discuss the remaining critical issues that the WG faced. This session was intended to 1) raise awareness of why this issue is important and provide transparency on WG deliberations/contrasting positions to date;

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<sup>49</sup> Beijing GAC Communiqué:

[https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013\\_Final.pdf?version=1&modificationDate=1365666376000&api=v2](https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1365666376000&api=v2)

<sup>50</sup> IGO-INGO Initial Report: <http://gnso.icann.org/en/issues/igo-ingo-initial-14jun13-en.pdf>

<sup>51</sup> Initial Report – Public Comment Page: <http://www.icann.org/en/news/public-comment/igo-ingo-initial-14jun13-en.htm>

and 2) facilitate interactive discussion and solicit feedback from the community on key outstanding issues to help guide the WG in moving forward. However, very few community members participated in the interactive session thus producing little new information or suggestions to advance the WG's deliberations. As a result, the WG continued to refine its recommendations in preparation of the draft Final Report.

Prior to the Durban meeting in July 2013, the NGPC passed a resolution<sup>52</sup> that confirmed that appropriate preventive initial protection for the IGO identifiers, as a response to the GAC advice will continue to be provided as presented in the New gTLD Registry Agreement. Since then, the Registry Agreement<sup>53</sup> for New gTLDs has been approved by the NGPC and it can be found on the new gTLD site. The Registry Agreement continues to include a reference in Specification 5 to the reservations of IOC, RCRC, and IGO names, noting that the list of the reserved names is located in the Registries<sup>54</sup> section of ICANN.org. It should also be noted that the NGPC passed another resolution<sup>55</sup> extending these initial protections until the first meeting of the NGPC following the ICANN 48 Meeting in Buenos Aires or until the NGPC makes a further determination on the IGO GAC Advice, whichever is earlier.

The NGPC adopted temporary protections for acronyms of the International Committee of the Red Cross (ICRC/CICR) and the International Federation of Red Cross and Red Crescent Societies (IFRC/FICR) at its most recent meeting on 10 September 2013. Also at the meeting, the NGPC agreed to accept the GAC's advice to continue working on a mechanism to protect the IGO acronyms. Refer to the [Durban Scorecard](#)<sup>56</sup>.

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<sup>52</sup> NGPC Resolution 2 July 2013: <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-02jul13-en.htm>

<sup>53</sup> New gTLD RA: <http://newgtlds.icann.org/en/applicants/agb/base-agreement-contracting>

<sup>54</sup> IOC, RCRC, IGO Reservation list: <http://www.icann.org/en/resources/registries/reserved>

<sup>55</sup> NGPC Resolution 17 Jul 2013: <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-17jul13-en.htm>

<sup>56</sup> Durban Scorecard: <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-annex-1-10sep13-en.pdf>

The IGO-INGO WG submitted for [public comment its draft Final Report](#)<sup>57</sup> which contained the proposed recommendations and the WG's Chair assessment on the levels of consensus. Upon closure of the public comment period (1 Nov 2013), the WG review the public comments and determined changes to the Final Report as approved by the WG.

On 2 October 2013, the NGPC sent a [letter](#)<sup>58</sup> to the GAC Chair regarding the GAC advice on the protection of IGO acronyms. The letter responded to GAC advice about a cost-neutral mechanism that would provide notification to an IGO when a Registrant registered a domain name matching the protected acronym identifier and to allow for a third party review of such a registration request. The draft proposal submitted to the GAC contained reference to designated acronyms being entered into the Trademark Clearinghouse and use of the 90 day Claims Notification Service. The proposal also discussed the use of a dispute resolution mechanism, the URS.

The IGO Coalition sent a [response](#)<sup>59</sup> to the GAC about the NGPC proposal on 4 November 2013. The letter expressed reservations about the NGPC proposal stating that it did not create a presumption of protection and at best only curative and not preventative.

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<sup>57</sup> IGO-INGO WG Draft Final Report PC: <http://www.icann.org/en/news/public-comment/igo-ingo-final-20sep13-en.htm>

<sup>58</sup> NGPC Letter to GAC Chair: <http://www.icann.org/en/news/correspondence/crocker-to-dryden-02oct13-en.pdf>

<sup>59</sup> IGO Coalition Letter to GAC: <http://www.icann.org/en/news/correspondence/igo-coalition-to-gac-01nov13-en.pdf>

### **3.1 Protections Available to IGOs and INGOs Under the Current Version of the Applicant Guidebook (AGB)**

In addition to the protections adopted by the ICANN Board for the IOC and RCRC names at the top level under section 2.2.1.2.3 of the Applicant Guidebook, there are existing protections available to other entities under the New gTLD Program which may also be available to international organizations.<sup>60</sup> In providing further details below, it is noted that some of these existing protections may not be applicable or satisfactory for all international organizations.

#### **Top-Level Protections**

Information on applied-for strings was made publicly available after the close of the application window for the initial round of new gTLDs. Any party, including international organizations, had the ability to review the applied-for strings to determine if any raise concerns, and had the opportunity to avail themselves of the objection processes if the applied-for string infringed on specific interests set out in the Applicant Guidebook “AGB”, which include:

- Infringement of legal rights, particularly intellectual property rights;
- Approval of new TLDs that are contrary to generally accepted legal norms of morality and public order as recognized under principles of international law; and
- Misappropriation of community names or labels.

In addition, an Independent Objector was appointed, and had the ability to file objections in certain cases where an objection was not already made to an application that might infringe on the latter two interests listed above. The goal was for the Independent Objector to act solely in the best interest of the public. The Independent Objector did not, however, have the ability to bring an objection on the grounds of infringement of intellectual property rights.

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<sup>60</sup> The latest Guidebook is posted at: <http://newgtlds.icann.org/en/applicants/agb> Supporting documentation is available through the “New Generic Top Level Domains” button at [www.icann.org](http://www.icann.org)

The legal rights objection includes a specific ground for objection that may be applicable to many IGOs. An IGO was eligible to file a legal rights objection if it meets the criteria for registration of an .INT domain name. See Applicant Guidebook, section 3.2.2.2<sup>61</sup>. Those criteria include:

- a) An international treaty between or among national governments must have established the organization; and
- b) The organization that is established must be widely considered to have independent international legal personality and must be the subject of and governed by international law.

The specialized agencies of the UN and the organizations having observer status at the UN General Assembly are also recognized as meeting these criteria. In addition, going forward, if a holder of a mark can demonstrate that its mark is protected by statute or treaty, the mark holder may also avail itself of the Post-Delegation Dispute Resolution Procedure (PDDRP) in cases where it appears that a registry (at the top level) is affirmatively infringing the complainant's mark. It should be noted that IGO names and acronyms may or may not be considered a mark that would meet the eligibility requirements to utilize the PDDRP. More information on the PDDRP is available in the Applicant Guidebook.<sup>62</sup>

### **Second-Level Protections**

Through the Trademark Clearinghouse, mark holders will have the opportunity to register their marks in a single repository that will serve all new gTLDs. Currently, trademark holders go through similar rights authentication processes for each separate top-level domain that launches.

New gTLD registries are required to use the Trademark Clearinghouse in two ways. First, they must offer a "sunrise" period – a pre-launch opportunity for rights holders to register names in the new gTLD prior to general registration. Second, a Trademark Claims service will notify rights holders of domain name registrations that match records in the Clearinghouse for a period of time at the beginning of general registration.

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<sup>61</sup> Applicant Guidebook: <http://newgtlds.icann.org/en/applicants/agb/objection-procedures-04jun12-en.pdf>

<sup>62</sup> PDDRP Section of Applicant Guidebook: <http://newgtlds.icann.org/en/applicants/agb/pddrp-04jun12-en.pdf>

Word marks that are protected by a statute or treaty are eligible for protection through the mandatory Trademark Claims process and Sunrise protections in the New gTLD Program under the Trademark Clearinghouse. In addition, any word mark that has been validated through a court of law or other judicial proceeding is also eligible.

The Trademark Clearinghouse will support increased protections, as well as reduce costs for mark holders. In the case of IGOs and INGOs, to the extent they are not considered word mark holders, any such benefits of the Trademark Clearinghouse may not apply. The PDDRP also affords protection for activity at the second level. At the second level the PDDRP provides an avenue whereby mark holders can file a dispute against a registry, rather than a registrant, if through a registry's affirmative conduct there is a pattern or practice of the registry's bad faith intent to profit from the sale of infringing names and the registry's bad faith intent to profit from systematic registration of names infringing the complainant's mark.

The New gTLD Program also affords mark holders a new form of alternative dispute resolution for clear-cut cases of abuse by domain name registrants. The Uniform Rapid Suspension System (URS) is a streamlined version of the Uniform Domain Name Dispute Resolution Policy (UDRP) process, providing trademark holders a quicker and simpler process through which infringing registrations at the second level can be "taken down." IGOs, which are in general not "trademark holders", do not generally benefit from access to this mechanism, except in cases where their names are trademarked.

## 6. Community Input

### 6.1 Request for input from GNSO Stakeholder Groups and Constituencies

As required by the GNSO PDP Manual, a request for input was sent to all GNSO Stakeholder Groups and Constituencies at the end of January 2013. Contributions were received from the Non-Commercial Stakeholder Group, Registries Stakeholder Group and Internet Service Providers and Connectivity Constituency. Complete responses can be found at the IGO-INGO WIKI page: <https://community.icann.org/pages/viewpage.action?pageId=40175441>

### 6.2 Request for input from other ICANN Supporting Organizations and Advisory Committees

A request for input was sent to all ICANN Supporting Organizations and Advisory Committees at the end of January 2013. One contribution was received from the At-Large Advisory Committee. Complete responses can be found at the IGO-INGO WIKI page: <https://community.icann.org/pages/viewpage.action?pageId=40175441>

### 6.3 Summary of Community Input

Among the responses received, there was general agreement that there are substantive differences among the RCRC, the IOC, IGOs and other INGOs, as well as between IGOs and INGOs, which should be taken into account for determining what, if any, type of special protections are necessary and if so, what the qualifying criteria should be. With the exception of the NCSG, the other contributors generally agreed that amendments or modifications to existing Rights Protection Mechanisms (e.g. UDRP, URS) available under the new gTLD Program are probably necessary to adequately protect the interests of IGOs and INGOs in their identifiers. The NCSG believes that the existing RPMs are adequate in regard to demonstrated need.

The ALAC believes in general that if any special protections for IGOs and INGOs are to be provided, there must be real harms if the protections are not provided, and that the protections will actually help prevent such harms. In its response, the ALAC stated that special protection at the top level is generally not needed, and that if necessary, the current objection process could be modified to provide sufficient protection for IGOs and INGOs. With regard to the second level, the ALAC

believes that any protections at this level must be restricted to organizations that: 1) can demonstrate they have been subject to harms due to bad-faith attempts to use their names at the second level of existing TLDs; and 2) can demonstrate substantive harm to the public interest if their names are not protected in the future.

In its response the RySG stated the basic premise of the majority view that beyond the special protections for the RCRC and IOC adopted by the GNSO in its 20 December resolution, any other special protections are “inappropriate” for any select group of entities, and that existing RPMs along with any necessary modifications to make them available for IGOs and INGOs are sufficient.

The RySG response also included a Minority Position submitted by the Universal Postal Union, an IGO, which reflects and reiterates prior submissions made on behalf of IGOs. The Minority Position believes that special protections should be provided to the names and acronyms of IGOs because in their view: 1) IGOs are protected under international and domestic laws; 2) IGOs have a public mission and are funded by public money – therefore, any abuse of IGO names and acronyms that are remedied by fee-based curative mechanisms rather than preventive, comes at a cost to the public missions of IGOs; 3) existing RPMs which are trademark-based are insufficient in providing adequate protection for IGO identifiers; 4) GAC advice to protect IGO identifiers should be given appropriate weight and consideration.

The NCSG’s position is that special protections should only be provided to those groups that are legitimately entitled to have a preference over other users of a domain name and are not able to protect their interest through existing measures because they lack legal protections. At the time the NCSG submitted its response, it believed that no specific harm has been demonstrated to a group that is unique to that group and therefore, no special protections should be provided.

The ISPCP stated its general position of not being in favour of “special protections,” but recognized the GAC advice and therefore accepts that some type of protection may be granted. The ISPCP believes that no special protections are necessary at the top level. At the second level, the ISPCP’s position is that only the exact match of an identifier in different languages should be protected for IGOs and INGOs created under an international treaty and ratified by a sufficient number of



countries. Such protections should be granted in all gTLDs, and there should be some mechanisms to allow legitimate right holders to register such identifiers.

#### **6.4 Summary of International Organizations' Positions**

The RCRC, IOC, and IGOs have well-documented their positions and respective rationales for providing protection to their identifiers in the top and second levels of gTLDs. These positions are summarized in the Final GNSO Issue Report on the Protection of International Organization Names in New gTLDs, and have been further elaborated upon through the mailing list of the PDP WG. Their respective positions are briefly summarized below.

##### **Red Cross and Red Crescent**

The RCRC cites the protection granted to the Red Cross and Red Crescent designations and names under universally agreed international humanitarian law treaties (the Geneva Conventions of 1949 and their Additional Protocols) and under the domestic laws in force in multiple jurisdictions, as establishing a *sui generis* case for permanent protection of the RCRC designations and names from third party registration at both the top and second level in all gTLDs. While expressing appreciation for the work produced by the WG, the RCRC maintain that the recommendations of the WG are insufficient and should be complemented.

The RCRC notably underlines that the existing protections, as currently defined in the Applicant Guidebook and in Specification 5 of the revised Registry Agreement, are not sufficient and should be made to expressly extend to (in the WG's own categorization: Scope 2 names or identifiers):

- the names of the respective components of the International Red Cross and Red Crescent Movement (i.e. the 189 recognized National Red Cross or Red Crescent Societies - e.g. German Red Cross, Afghan Red Crescent, Red Star of David, etc.). This protection is called for in both English and in the national and official languages of the National Societies concerned;
- the names of the two international components - the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies (IFRC) in the six UN languages, as well as the acronyms of the two Organizations in their commonly used translations.

- In as much, the RCRC have suggested that the recommendations of the Working Group be amended and revised to expressly foresee that
  - Top-Level protections of Exact Match, Full Name Scope 2 identifiers of the Red Cross Red Crescent Movement are placed in the Applicant Guidebook section 2.2.1.2.3 as Strings "Ineligible for Delegation";
  - Second-Level protections of only Exact Match, Full Name Scope 2 identifiers of the Red Cross Red Crescent Movement are placed in Specification 5 of the Registry Agreement;
  - For RCRC Scope 2 identifiers, if placed in the Applicant Guidebook or in Specification 5 of the Registry Agreement as strings "Ineligible for Delegation" at top or second levels, an exception procedure be created for cases where a protected organization wishes to apply for a protected string.

While the RCRC have taken note of the proposed recommendation to add the so-called Scope 2 names or identifiers to the Trademark Clearinghouse (TMCH), they have consistently maintained that this would not meet the requirements for protection under the law and would be liable to place an undue burden on the RCRC organisations to monitor and activate existing reactive procedures and mechanisms. They have also underlined that should the TMCH option be considered, a waiver of fees should be duly foreseen and the standing of the RCRC organizations in existing remedial mechanisms confirmed.

Finally, while citing the express prohibition on imitations of the Red Cross, Red Crescent and Red Crystal designations and names under international law and under the laws in force in multiple jurisdictions, the RCRC have expressed their continued support for the establishment of a mechanism or procedure to effectively address the issue of strings confusingly similar or liable to confusion with, or including, either of the RCRC designations or names.

### **International Olympic Committee**

The IOC<sup>63</sup> also cites the *sui generis* protection granted to IOC identifiers under national laws in multiple jurisdictions (recognized by the GAC and the ICANN Board) as justification for establishing special permanent protection from third party registration of the IOC designations at both the top and second levels in all gTLDs; and that the IOC designations be available for registration by the IOC or its authorized international and national organizations through a Modified Reserved Names list.

### **International Governmental Organizations**

The position of IGOs that special protections should be provided for IGO names and acronyms at both the top and second levels is summarized above in the Minority Position of the RySG submission. It is consistent with GAC advice on the need for protection of IGO names and acronyms against inappropriate third party registration, and with the Board's acknowledged need for appropriately implemented interim protection being in place before any new gTLDs would launch. IGOs do not believe finalization of the Working Group's deliberations, or any other Working Group which may be required to consider granting IGOs access to UDRP, URS, TMCH or other ICANN mechanisms would remain on-going.

### **International Non-Governmental Organizations**

Some members of the WG have also advocated protections for certain INGOs (other than the IOC and the RCRC) that have recognized global public missions, extensively legally protected names, and protections in law granted on the basis of their (quasi-governmental) international status<sup>64</sup>. The International Organization for Standardization (ISO) has formally advocated that certain INGOs and IGOs with global public missions need special protection to counter the increasing potential for and on-going impact of cybersquatting; and thus there is a need to establish objective, non-discriminatory criteria for granting special protection which would also avoid unduly restricting rights and legitimate rights.

## **6.5 Public Comment Period – IGO-INGO WG Initial Report**

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<sup>63</sup> IOC 3029 Nov 2012: <http://forum.icann.org/lists/gnso-igo-ingo/msg00133.html>

<sup>64</sup> ISO Letter to Stephen Crocker 13 May 2013: <http://forum.icann.org/lists/gnso-igo-ingo/msg00616.html>

The IGO-INGO WG completed its Initial Report and submitted it for [public comment on 14 June 2013](#)<sup>65</sup>. Because consensus within the WG could not be easily determined at the time, the WG sought community input on the possible recommendations options listed in the Initial Report. It was understood that an additional comment period would be required for the WG's Final Report.

A total of ten comments were submitted. However, none of the comments submitted were external to the IGO-INGO WG meaning that the WG did not receive feedback from other stakeholders of the community. Having performed a cursory review of the comments, the WG determined that each comment essentially restated a position that was already well deliberated within the WG and that no new suggestions for protections were offered. A public comment review document was created and the Report of Public Comments was also created.

#### **6.6 Public Comment Period – IGO-INGO WG Draft Final Report**

The IGO-INGO WG completed its Draft Final Report and submitted it for [public comment on 20 September 2013](#)<sup>66</sup>. In preparation of the Final Report, a formal consensus call was performed outlining each of the stakeholders support or lack of support for the recommendations, which are presented in Section 3 of this report.

A total of twenty comments and two replies were submitted. The WG reviewed each of the comments extensively, especially with regards to the themes that the community did not generally support protections of acronyms and that deployment of these policies within incumbent gTLDs should not trump existing property rights of others. A Public Comment Review Tool (PCRT) document was created that outlines the WG's dialogue and any recommended actions to take on the Final Report. At the time of publication of this report, the Report of Public Comments was not created, but a link of it will exist within the Public Comment area foot-noted below.

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<sup>65</sup> IGO-INGO Initial Report Public Comment: <http://www.icann.org/en/news/public-comment/igo-ingo-initial-14jun13-en.htm>

<sup>66</sup> IGO-INGO Draft Final Report Public Comment: <http://www.icann.org/en/news/public-comment/igo-ingo-final-20sep13-en.htm>

## 7. Next Steps

This Final Report is being submitted to the GNSO Council for their consideration and to determine what further actions to take. The IGO-INGO WG will follow the directions of the Council if any additional work is needed and/or if an Implementation Review Team is formed.

## Annex 1 – PDP WG Charter

<b>WG Name:</b>	<b>IGO-INGO Protection PDP Working Group</b>	
<b>Section I: Working Group Identification</b>		
<b>Chartering Organization(s):</b>	GNSO Council	
<b>Charter Approval Date:</b>	15 November 2012	
<b>Name of WG Chair:</b>	Thomas Rickert	
<b>Name(s) of Appointed Liaison(s):</b>	Jeff Neuman	
<b>WG Workspace URL:</b>	<a href="http://gnso.icann.org/en/group-activities/protection-igo-names.htm">http://gnso.icann.org/en/group-activities/protection-igo-names.htm</a>	
<b>WG Mailing List:</b>	gnso-igo-ingo@icann.org	
<b>GNSO Council Resolution:</b>	<b>Title:</b>	Motion on the Initiation of a Policy Development Process on the Protection of Certain International Organization Names in all GTLDs.
	<b>Ref # &amp; Link:</b>	20121017-2 <a href="http://gnso.icann.org/en/resolutions#201210">http://gnso.icann.org/en/resolutions#201210</a>
<b>Important Document Links:</b>	<ul style="list-style-type: none"> <li>• Protection of International Organization Names Final Issue Report (<a href="http://gnso.icann.org/en/issues/protection-igo-names-final-issue-report-01oct12-en.pdf">http://gnso.icann.org/en/issues/protection-igo-names-final-issue-report-01oct12-en.pdf</a>)</li> <li>• IOC/RC Drafting Team Recommendations Report (<a href="http://gnso.icann.org/en/issues/ioc-rcrc-recommendations-28sep12-en.pdf">http://gnso.icann.org/en/issues/ioc-rcrc-recommendations-28sep12-en.pdf</a>)</li> <li>• GNSO Working Group Guidelines (<a href="http://gnso.icann.org/council/annex-1-gnso-wg-guidelines-08apr11-en.pdf">http://gnso.icann.org/council/annex-1-gnso-wg-guidelines-08apr11-en.pdf</a>)</li> <li>• GNSO PDP Manual (<a href="http://gnso.icann.org/council/annex-2-pdp-manual-16dec11-en.pdf">http://gnso.icann.org/council/annex-2-pdp-manual-16dec11-en.pdf</a>)</li> <li>• Annex A – GNSO Policy Development Process of the ICANN Bylaws (<a href="http://www.icann.org/en/about/governance/bylaws#AnnexA">http://www.icann.org/en/about/governance/bylaws#AnnexA</a>)</li> </ul>	
<b>Section II: Mission, Purpose, and Deliverables</b>		
<b>Mission &amp; Scope:</b>		
<b>Background</b>		
<p>The ICANN Board has requested policy advice from the GNSO Council and the GAC on whether special protections should be afforded for the names and acronyms of the Red Cross/Red Crescent Movement (“RCRC”), the International Olympic Committee (“IOC”) and/or International Government</p>		

Organizations (“IGOs”).

In September 2011, the GAC sent advice to the GNSO with a proposal for granting second level protections based upon the protections afforded to IOC/RCRC at the first level during the initial round of new gTLD applications, and that such protections are permanent. As a result of the GAC proposal submitted to the GNSO, the GNSO IOC/RCRC Drafting Team was formed and created a set of recommendations for protecting the IOC/RCRC names at the second level of the initial round new gTLDs, including the initiation of an “expedited PDP” to determine appropriate permanent protections for the RCRC and IOC names.

The latest inquiry to examine the issue of protecting IGO names emerged as a result of a request from the ICANN Board in response to letters received from the OECD and other IGOs in December 2011. Specifically, IGOs are seeking ICANN approval of protections at the top level that, at a minimum, are similar to those afforded to the RCRC and IOC in the Applicant Guidebook. In addition, IGOs are seeking a pre-emptive mechanism to protect their names at the second level. On 11 March 2012, the ICANN Board formally requested that the GNSO Council and the GAC provide policy advice on the IGO’s request.

### **Mission and Scope**

The PDP Working Group is tasked to provide the GNSO Council with a policy recommendation as to 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 the following types of international organizations: International Governmental Organizations (IGOs) and international non-governmental organizations (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), and (ii) if so, is tasked to develop policy recommendations for such protections.

As part of its deliberations on the first issue as to whether there is a need for special protections for certain international organizations at the top and second level in all gTLDs, the PDP WG should, at a minimum, consider the following elements as detailed in the Final Issue Report:

- 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

Should the PDP WG reach consensus on a recommendation that 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:

- Determine the appropriate protection for RCRC and IOC names at the second level for the initial round of new gTLDs.
- 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.

The PDP WG is also expected to consider any information and advice provided by other ICANN Supporting Organizations and Advisory Committees on this topic. The WG is strongly encouraged to reach out to these groups for collaboration at the initial stage of its deliberations, to ensure that their concerns and positions are considered in a timely manner.

#### **Objectives & Goals:**

To develop, at a minimum, an Initial Report and a Final Report regarding whether any special protections should be provided for certain IGO and INGO names and if so, recommendations for specific special protections, to be delivered to the GNSO Council, following the processes described in Annex A of the ICANN Bylaws and the GNSO PDP Manual.

Possible tasks that the WG may consider:

- establish the bases under which ICANN should expand its reserved names list, or to create a special reserved names list, to include IOC, IFRC, RCRC, IGO, and INGO related names.
- decide on whether the names should be added to the existing reserved names list or a new list(s) should be created.
- develop a policy recommendation on how determinations can be made concerning which organizations meet the bases recommended above.
- perform an impact analysis on each of the recommendations, if any, for rights, competition etc. as defined in the PDP
- determine how incumbent registries should meet the new policy recommendations, if any.

\*\* Given the commitment to expedite the PDP process, the WG will consider the work and documents used by the IOC-RCRC DT with regard to the IOC-RCRC terms.

#### **Deliverables & Timeframes:**

The WG shall respect the timelines and deliverables as outlined in Annex A of the ICANN Bylaws and



the PDP Manual and, as requested by the GNSO Council in its motion initiating this PDP, shall strive to fulfill this PDP's requirements "in an expedited manner."

Specifically:

- 1) The PDP WG shall assume that the GNSO Council will approve the IOC/RC DT recommendations regarding interim protections of GAC specified IOC/RC second-level names in the initial round of new gTLDs in case any policy recommendations are not approved in time for the introduction of new gTLDs.
- 2) To allow the GNSO Council to meet the ICANN Board's requested deadline of 31 January 2013, the WG shall exert its best efforts to produce interim recommendations with regard to the protection of IGO names at the second level that may meet some to-be-determined criteria for special protection in the initial round of new gTLDs in case any policy recommendations are not approved in time for the introduction of new gTLDs; WG recommendations in this regard should be communicated to the GNSO Council with sufficient lead time before the January 2013 Council meeting to allow the Council to take action in that meeting.
- 3) The WG shall strive to produce final PDP recommendations for all intergovernmental organizations that could result in the implementation of a second level protection policy recommendation before the delegation of new gTLD strings from the initial round, and a top-level policy recommendation before the opening of the second round of new gTLD applications.

As per the GNSO Working Group Guidelines, the WG shall develop a suggested work plan as soon as possible that outlines the necessary steps and expected timing in order to achieve the milestones of the PDP as set out in this Charter and consistent with Annex A of the ICANN Bylaws and the PDP Manual; and submit this to the GNSO Council.

### Section III: Formation, Staffing, and Organization

#### Membership Criteria:

The Working Group will be open to all interested in participating. New members who join after certain parts of work has been completed are expected to review previous documents and meeting transcripts.

#### Group Formation, Dependencies, & Dissolution:

This WG shall be a standard GNSO PDP Working Group. The GNSO Secretariat should circulate a 'Call For Volunteers' as widely as possible in order to ensure broad representation and participation in the Working Group, including:

- Publication of announcement on relevant ICANN web sites including but not limited to the GNSO and other Supporting Organizations and Advisory Committee web pages; and
- Distribution of the announcement to GNSO Stakeholder Groups, Constituencies and other

<p>ICANN Supporting Organizations and Advisory Committees</p> <ul style="list-style-type: none"> <li>- Distribution of the announcement to appropriate representatives of IGOs, the RCRC and IOC.</li> </ul>
<p><b>Working Group Roles, Functions, &amp; Duties:</b></p> <p>The ICANN Staff assigned to the WG will fully support the work of the Working Group as requested by the Chair including meeting support, document drafting, editing and distribution and other substantive contributions when deemed appropriate.</p> <p>Staff assignments to the Working Group:</p> <ul style="list-style-type: none"> <li>• GNSO Secretariat</li> <li>• 2 ICANN policy staff members (Brian Peck, Berry Cobb)</li> </ul> <p>The standard WG roles, functions &amp; duties shall be applicable as specified in Section 2.2 of the Working Group Guidelines.</p>
<p><b>Statements of Interest (SOI) Guidelines:</b></p> <p>Each member of the Working Group is required to submit an SOI in accordance with Section 5 of the GNSO Operating Procedures.</p>
<p><b>Section IV: Rules of Engagement</b></p>
<p><b>Decision-Making Methodologies:</b></p> <p><i>{Note: The following material was extracted from the Working Group Guidelines, Section 3.6. If a Chartering Organization wishes to deviate from the standard methodology for making decisions or empower the WG to decide its own decision-making methodology, this section should be amended as appropriate}.</i></p> <p>The Chair will be responsible for designating each position as having one of the following designations:</p> <ul style="list-style-type: none"> <li>• <b>Full consensus</b> - when no one in the group speaks against the recommendation in its last readings. This is also sometimes referred to as <b>Unanimous Consensus</b>.</li> <li>• <b>Consensus</b> - a position where only a small minority disagrees, but most agree. <i>[Note: For those that are unfamiliar with ICANN usage, you may associate the definition of 'Consensus' with other definitions and terms of art such as rough consensus or near consensus. It should be noted, however, that in the case of a GNSO PDP originated Working Group, all reports, especially Final Reports, must restrict themselves to the term 'Consensus' as this may have legal implications.]</i></li> <li>• <b>Strong support but significant opposition</b> - a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it.</li> <li>• <b>Divergence</b> (also referred to as <b>No Consensus</b>) - a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.</li> </ul>

- **Minority View** - refers to a proposal where a small number of people support the recommendation. This can happen in response to a **Consensus**, **Strong support but significant opposition**, and **No Consensus**; or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.

In cases of **Consensus**, **Strong support but significant opposition**, and **No Consensus**, an effort should be made to document that variance in viewpoint and to present any **Minority View** recommendations that may have been made. Documentation of **Minority View** recommendations normally depends on text offered by the proponent(s). In all cases of **Divergence**, the WG Chair should encourage the submission of minority viewpoint(s).

The recommended method for discovering the consensus level designation on recommendations should work as follows:

- i. After the group has discussed an issue long enough for all issues to have been raised, understood and discussed, the Chair, or Co-Chairs, make an evaluation of the designation and publish it for the group to review.
- ii. After the group has discussed the Chair's estimation of designation, the Chair, or Co-Chairs, should reevaluate and publish an updated evaluation.
- iii. Steps (i) and (ii) should continue until the Chair/Co-Chairs make an evaluation that is accepted by the group.
- iv. In rare case, a Chair may decide that the use of polls is reasonable. Some of the reasons for this might be:
  - A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.
  - It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between **Consensus** and **Strong support but Significant Opposition** or between **Strong support but Significant Opposition** and **Divergence**.

Care should be taken in using polls that they do not become votes. A liability with the use of polls is that, in situations where there is **Divergence** or **Strong Opposition**, there are often disagreements about the meanings of the poll questions or of the poll results.

Based upon the WG's needs, the Chair may direct that WG participants do not have to have their name explicitly associated with any Full Consensus or Consensus view/position. However, in all other cases and in those cases where a group member represents the minority viewpoint, their name must be explicitly linked, especially in those cases where polls were taken.

Consensus calls should always involve the entire Working Group and, for this reason, should take place on the designated mailing list to ensure that all Working Group members have the opportunity to fully participate in the consensus process. It is the role of the Chair to designate which level of consensus is reached and announce this designation to the Working Group. Member(s) of the

Working Group should be able to challenge the designation of the Chair as part of the Working Group discussion. However, if disagreement persists, members of the WG may use the process set forth below to challenge the designation.

If several participants (see Note 1 below) in a WG disagree with the designation given to a position by the Chair or any other consensus call, they may follow these steps sequentially:

- Send email to the Chair, copying the WG explaining why the decision is believed to be in error.
- If the Chair still disagrees with the complainants, the Chair will forward the appeal to the CO liaison(s). The Chair must explain his or her reasoning in the response to the complainants and in the submission to the liaison. If the liaison(s) supports the Chair's position, the liaison(s) will provide their response to the complainants. The liaison(s) must explain their reasoning in the response. If the CO liaison disagrees with the Chair, the liaison will forward the appeal to the CO. Should the complainants disagree with the liaison support of the Chair's determination, the complainants may appeal to the Chair of the CO or their designated representative. If the CO agrees with the complainants' position, the CO should recommend remedial action to the Chair.
- In the event of any appeal, the CO will attach a statement of the appeal to the WG and/or Board report. This statement should include all of the documentation from all steps in the appeals process and should include a statement from the CO (see Note 2 below).

Note 1: Any Working Group member may raise an issue for reconsideration; however, a formal appeal will require that a single member demonstrates a sufficient amount of support before a formal appeal process can be invoked. In those cases where a single Working Group member is seeking reconsideration, the member will advise the Chair and/or Liaison of their issue and the Chair and/or Liaison will work with the dissenting member to investigate the issue and to determine if there is sufficient support for the reconsideration to initial a formal appeal process.

Note 2: It should be noted that ICANN also has other conflict resolution mechanisms available that could be considered in case any of the parties are dissatisfied with the outcome of this process.

#### **Status Reporting:**

As requested by the GNSO Council, taking into account the recommendation of the Council liaison to this group.

#### **Problem/Issue Escalation & Resolution Processes:**

*{Note: the following material was extracted from Sections 3.4, 3.5, and 3.7 of the Working Group Guidelines and may be modified by the Chartering Organization at its discretion}*

The WG will adhere to ICANN's Expected Standards of Behavior as documented in Section F of the ICANN Accountability and Transparency Frameworks and Principles, January 2008.

If a WG member feels that these standards are being abused, the affected party should appeal first to the Chair and Liaison and, if unsatisfactorily resolved, to the Chair of the Chartering Organization or

their designated representative. It is important to emphasize that expressed disagreement is not, by itself, grounds for abusive behavior. It should also be taken into account that as a result of cultural differences and language barriers, statements may appear disrespectful or inappropriate to some but are not necessarily intended as such. However, it is expected that WG members make every effort to respect the principles outlined in ICANN’s Expected Standards of Behavior as referenced above.

The Chair, in consultation with the Chartering Organization liaison(s), is empowered to restrict the participation of someone who seriously disrupts the Working Group. Any such restriction will be reviewed by the Chartering Organization. Generally, the participant should first be warned privately, and then warned publicly before such a restriction is put into place. In extreme circumstances, this requirement may be bypassed.

Any WG member that believes that his/her contributions are being systematically ignored or discounted or wants to appeal a decision of the WG or CO should first discuss the circumstances with the WG Chair. In the event that the matter cannot be resolved satisfactorily, the WG member should request an opportunity to discuss the situation with the Chair of the Chartering Organization or their designated representative.

In addition, if any member of the WG is of the opinion that someone is not performing their role according to the criteria outlined in this Charter, the same appeals process may be invoked.

**Closure & Working Group Self-Assessment:**

The WG will close upon the delivery of the Final Report, unless assigned additional tasks or follow-up by the GNSO Council.

**Section V: Charter Document History**

Version	Date	Description
1.0	25 October 2012	First draft submitted by staff for consideration by WG

<b>Staff Contact:</b>	Brian Peck, Berry Cobb	<b>Email:</b>	Policy-staff@icann.org
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## Annex 2 – Working Group Members and Attendance

IGO-INGO Protections Policy Development Process (PDP) WG	Affiliation	SOI
Wilson Abigagba	NCUC	<a href="#">SOI</a>
Lanre Ajayi	NCA	<a href="#">SOI</a>
Iliya Bazlyankov	RrSG	<a href="#">SOI</a>
Grit-Maren Beer		SOI
Alain Berranger	NPOC	<a href="#">SOI</a>
Jim Bikoff	IPC/IOC	<a href="#">SOI</a>
Hago Dafalla	NCUC	<a href="#">SOI</a>
Avri Doria	NCSG	<a href="#">SOI</a>
Bret Fauset	RySG	<a href="#">SOI</a>
Elizabeth Finberg	RySG	<a href="#">SOI</a>
Guilaine Fournet	International Electrotechnical Commission (IEC)	<a href="#">SOI</a>
Chuck Gomes	RySG	<a href="#">SOI</a>
Alan Greenberg	ALAC	<a href="#">SOI</a>
Catherine Gribbin	Red Cross Red Crescent (Canadian Red Cross)	<a href="#">SOI</a>
Ricardo Guilherme	RySG / UPU	<a href="#">SOI</a>
Stephane Hankins	Red Cross Red Crescent (International Committee of the Red Cross)	<a href="#">SOI</a>
David Heasley	IPC/IOC	<a href="#">SOI</a>
Debra Hughes	Red Cross Red Crescent (American Red Cross)NPOC	<a href="#">SOI</a>
Poncelet Ileleji	NPOC	<a href="#">SOI</a>
Zahid Jamil	CBUC	<a href="#">SOI</a>

<b>IGO-INGO Protections Policy Development Process (PDP) WG</b>	<b>Affiliation</b>	<b>SOI</b>
Wolfgang Kleinwaechter	NCSG	<a href="#">SOI</a>
Christopher Lamb	Red Cross Red Crescent (Australian Red Cross)	<a href="#">SOI</a>
Evan Leibovitch	ALAC (Vice-chair)/NARALO	<a href="#">SOI</a>
Berly Lelievre-Acosta	WIPO	SOI
Claudia MacMaster Tamarit	International Organization for Standardization	<a href="#">SOI</a>
David Maher	RySG	<a href="#">SOI</a>
Kiran Malancharuvil	IPC	<a href="#">SOI</a>
Judd Lauter	IPC/IOC	SOI
Jeff Neuman	RySG	<a href="#">SOI</a>
Osvaldo Novoa	ISPCP	<a href="#">SOI</a>
David Opderbeck	IPC	<a href="#">SOI</a>
Sam Paltridge	OECD	<a href="#">SOI</a>
Christopher Rassi	Red Cross Red Crescent (International Federation of Red Cross and Red Crescent Societies)	<a href="#">SOI</a>
Thomas Rickert	NCA	<a href="#">SOI</a>
Mike Rodenbaugh	IPC	<a href="#">SOI</a>
Greg Shatan	IPC	<a href="#">SOI</a>
Cintra Sooknanan	NPOC	<a href="#">SOI</a>
Ken Stubbs	RySG	<a href="#">SOI</a>
Joanne Teng	WIPO	SOI
Liz Williams	Individual	<a href="#">SOI</a>
Giacomo Mazzone		SOI
<b>Observers</b>		

IGO-INGO Protections Policy Development Process (PDP) WG	Affiliation	SOI
Jonathan Robinson- GNSO Council Chair	RySG	<a href="#">SOI</a>
Wolf-Ulrich Knohen - GNSO Council vice chair	ISPCP	<a href="#">SOI</a>
Mason Cole - GNSO Council vice chair	RrSG	<a href="#">SOI</a>
<b>Staff</b>		
Marika Konings		
Berry Cobb		
David Olive		
Mary Wong		
Glen de Saint Géry		
Gisella Gruber		
Nathalie Peregrine		
Julia Charvolen		

**\*\* Observer**

- The attendance records can be found at <https://community.icann.org/display/GWGTCT/IGO-INGO+Attendance+Chart>.
- The email archives can be found at <http://forum.icann.org/lists/gnso-igo-ingo/>.

RrSG – Registrar Stakeholder Group

RySG – Registry Stakeholder Group

CBUC – Commercial and Business Users Constituency

NCUC – Non Commercial Users Constituency

IPC – Intellectual Property Constituency

ISPCP – Internet Service and Connection Providers Constituency

NPOC – Not-for-Profit Operational Concerns Constituency



## Annex 3 – Community Input Statement Request Template

### [Stakeholder Group / Constituency / Supporting Organization / Advisory Committees] Input Protection of IGO and INGO Identifiers in all gTLDs Working Group

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PLEASE SUBMIT YOUR RESPONSE AT THE LATEST BY **15 January 2013** TO THE GNSO SECRETARIAT (gnso.secretariat@gnso.icann.org), which will forward your statement to the Working Group. The GNSO Council has formed a Working Group of interested stakeholders and Stakeholder Group / Constituency representatives, to collaborate broadly with knowledgeable individuals and organizations, in order to consider recommendations in relation to the protection of names, designations and acronyms, hereinafter referred to as “identifiers”, of intergovernmental organizations (IGO’s) and international non-governmental organizations (INGO’s) receiving protections under treaties and statutes under multiple jurisdictions.

Part of the Working Group’s effort will be to incorporate ideas and suggestions gathered from Stakeholder Groups and Constituencies through this template Statement. Inserting your response in this form will make it much easier for the Working Group to summarize the responses for analysis. This information is helpful to the community in understanding the points of view of various stakeholders. However, you should feel free to add any information you deem important to inform the Working Group’s deliberations, even if this does not fit into any of the questions listed below.

For further information, please visit the WG Webpage and Workspace:

- <http://community.icann.org/display/GWGTCT/>
- <http://gnso.icann.org/en/group-activities/protection-igo-names.htm>

#### Process

- Please identify the member(s) of your Stakeholder Group / Constituency who is (are) participating in this Working Group
- Please identify the members of your Stakeholder Group / Constituency who participated in developing the perspective(s) set forth below
- Please describe the process by which your Stakeholder Group / Constituency arrived at the perspective(s) set forth below

#### Below are elements of the approved charter that the WG has been tasked to address:

As part of its deliberations on the first issue as to whether there is a need for special protections for IGO and INGO organizations at the top and second level in all gTLDs (existing and new), the PDP WG should, at a minimum, consider the following elements as detailed in the Final Issue Report:

- Quantifying the Entities whose names may be Considered for Special Protection
- Evaluating the Scope of Existing Protections under International Treaties/Laws for the IGO-INGO organizations concerned;
- Establishing Qualification Criteria for Special Protection of names of the IGO and INGO organizations concerned;

- Distinguishing any Substantive Differences between the RCRC and IOC designations from those of other IGO-INGO Organizations.

Should the PDP WG reach consensus on a recommendation that there is a need for special protections at the top and second levels in all existing and new gTLDs for IGO and INGO organization identifiers; the PDP WG is expected to:

- Develop specific recommendations for appropriate special protections, if any, for the identifiers of any or all IGO and INGO organizations at the first and second levels.
- Determine the appropriate protections, if any, for RCRC and IOC names at the second level for the initial round of new gTLDs and make recommendations on the implementation of such protection.
- 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; if so, determine whether the existing protections are sufficient and comprehensive; if not, develop specific recommendations for appropriate special protections (if any) for these identifiers.

#### Questions to Consider:

1. What kinds of entities should be considered for Special Protections at the top and second level in all gTLDs (existing and new)?  
Group View:
2. What facts or law are you aware of which might form an objective basis for Special Protections under International Treaties/Domestic Laws for IGOs, INGOs as they may relate to gTLDs and the DNS?  
Group View:
3. Do you have opinions about what criteria should be used for Special Protection of the IGO and INGO identifiers?  
Group View:
4. Do you think there are substantive differences between the RCRC/IOC and IGOs and INGOs?  
Group View:
5. Should appropriate Special Protections at the top and second level for the identifiers of IGOs and INGOs be made?  
Group View:
6. In addition, should Special Protections for the identifiers of IGOs and INGOs at the second level be in place for the initial round of new gTLDs?  
Group View:
7. Should the current Special Protections provided to the RCRC and IOC names at the top and second level of the initial round for new gTLDs be made permanent in all gTLDs and if not, what specific recommendations for appropriate Special Protections (if any) do you have?  
Group View:

8. Do you feel existing RPMs or proposed RPMs for the new gTLD program are adequate to offer protections to IGO and INGOs (understanding that UDRP and TMCH may not be eligible for all IGOs and INGOs)?

Group View:

**For further background information on the WG's activities to date, please see:**

- [Protections of IGO and INGO identifiers in all gTLDs web page](http://gnso.icann.org/en/group-activities/protection-igo-names.htm) (see <http://gnso.icann.org/en/group-activities/protection-igo-names.htm>).
- Protection of International Organization Names Final Issue Report, for insight into the current practices and issues experienced (see <http://gnso.icann.org/en/issues/protection-igo-names-final-issue-report-01oct12-en.pdf>).
- The IOC/RCRC DT page is also a good reference for how those efforts were combined with this PDP (see <http://gnso.icann.org/en/group-activities/red-cross-ioc.htm>).

## Annex 4 – Issue Report Template Request Form

<b><u>QUESTIONS</u></b>	<b><u>ANSWERS</u></b>
1) Name of Requester:	IGO-INGO WG
2) Enter the name of your Stakeholder Group (SG), Constituency, or Advisory Committee (AC) supporting this request: <i>(Please enter "Not Applicable" if appropriate).</i>	Not Applicable
3) Briefly identify (or name) the Issue:	IGO-INGO Access to Curative Dispute Resolution Mechanisms (i.e. UDRP & URS)
4) Explain how this Issue affects the organization provided in Question #2 above:	Not Applicable
5) Provide rationale for policy development:	The two current domain name dispute resolution mechanisms (UDRP & URS) are premised on the complainant's legally owning trademark rights to the domain name(s) in question. With recommendations that IGOs and INGOs should also be able to utilize these mechanisms, the current UDRP & URS policy needs to be amended to allow these organizations similar access as trademark owners but without creating new or additional trademark or other legal rights.
6) Describe problems raised by the Issue including quantification to the extent known:	<p>Amending UDRP and URS policy to allow IGOs and INGO access to these mechanisms would amount to extending the scope of these dispute resolution processes beyond pure trademark disputes. Care should be taken to not expand their workings beyond what is necessary to ensure IGO and INGO protections tailored specifically to the WG's recommendations.</p> <p>The Council should take note that the scope of any PDP created as a result of this Issue Report will not impact the scope of the RPM (UDRP/URS) Review PDP that is presently on-hold at the GNSO Council. It is likely not to be started until 2015 and that this PDP on access for IGO-INGOs should begin as soon as possible.</p>
7) What is the economic impact of the Issue and/or its effect upon competition, consumer trust, privacy, or other rights:	The WG's recommendations are intended to ensure that costs of engaging in the UDRP and URS curative processes for protected IGOs and INGOs are measurable

	and reasonable, as compared to having to file territorial-based lawsuits in national courts against cyber-squatters.
7-A) Provide supporting evidence for Question #7 to the extent known: ( <i>Enter "None" if unavailable</i> )	See documentation and information produced by certain IGOs and INGOs during the WG's deliberations.
8) How does this Issue relate to provisions of the ICANN Bylaws, Affirmation of Commitments, and/or ICANN Articles of Incorporation:	Per Section 1.3 of the ICANN Bylaws, resolving this issue is "reasonably and appropriately related" to ICANN's mandate. As the UDRP and URS are mandatory policies to be implemented by contracted registries and registrars, a PDP to resolve this issue will provide a stable and clear framework for the operation of the domain name system, in line with ICANN's Core Values in Section 2 of the Bylaws.
9) Provide any suggestions you have concerning specific items to be addressed in the Issue Report: ( <i>Enter "None" if appropriate</i> )	Existing providers of UDRP and URS providers, as well as registries and registrars who will need to implement the amended policies, will need to be consulted and involved in the PDP.  The GNSO Council should also consider to add a request for ICANN staff to produce a draft Charter as part of the Issue Report.
10) Date request is submitted (e.g., 10-Nov-2013):	10-Nov-2013
11) Expected completion date (e.g., 31-Jan-2014):	31-Jan-2014

## Annex 5 – ICANN General Counsel Office Research Report

**As of 31 May 2013**

**To: GNSO Drafting Team on Protection of IGO-INGO Names**

**From: Office of ICANN’s General Counsel**

**Research Requested from the WG**

With respect to the question of securing legal advice regarding the protection of IGO-INGO names, the WG should request from the office of the ICANN General Counsel an answer to the following question:

Is ICANN 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:

- (a) the assignment by ICANN at the top level, or
- (b) 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)?

If the answer is affirmative, please specify the jurisdiction(s) and cite the law.

### **Research Performed**

Given our understanding that the WG is looking at the International Olympic Committee (IOC), the Red Cross/Red Crescent Movement (RCRC) as well as intergovernmental organizations (IGO) and other international non-governmental organization (INGOs), it was important to scope the research into a manageable format. Therefore, the research was broken into two parts, one as it related to the IOC and RCRC (as major INGOs that are the most likely to have special protections afforded, based on prior research performed) and the second part on IGOs. For IGOs, the research focused upon whether the jurisdictions

afforded heightened protections through recognition of the Paris Convention and its Article 6(1)(b) (the “6ter”). This method seemed to provide a broad and objective measure for identifying protections afforded to IGOs. As requested, the review was not focused on the potential prohibitions for or liabilities of registrants in domain name registration, rather the broader question of prohibitions that could attach up the registration chain (to registries and registrars). However, the research presented does not discuss ICANN’s potential for liability. Eleven jurisdictions from around the globe were surveyed, representing jurisdictions from every geographic region. ICANN interpreted the term “assignment” to mean the approval for delegation of a top-level domain.

### **Executive Summary**

As noted in the interim reporting provided on this research, the trend is that there are few, if any, jurisdictions sampled that have specific laws addressing ICANN, a registry or a registrar’s role in the delegation of top-level domains or in the registration of second-level domains. Only one jurisdiction (Brazil) was found to have a statute that placed a direct prohibition on the registration of IOC- or FIFA-related domain names, though the roles of gTLD registries/registrars are not specifically identified in the statute. However, the fact that statutes do not directly mention domain names cannot be taken to mean that ICANN, a registry or a registrar is exempt from liability if there is an unauthorized delegation at the top-level or registration at the second-level of a domain name using the name or acronym of the International Olympic Committee (IOC), the Red Cross/Red Crescent movement (RCRC), or Intergovernmental Organizations (IGOs) that are provided protection within each jurisdiction.

As seen in the survey below, nearly all of the sampled jurisdictions (representing all geographic regions) provide protections to the IOC and/or the RCRC for the use of their names and acronyms, and those protections are often understood to apply to domain

names. The exact terms that are protected in each jurisdiction vary, and ICANN has not engaged in an exercise to compare the scope of the protected terms requested by the IOC and the RCRC within the New gTLD Program, as this research was not undertaken to produce a list of names or acronyms recommended for protection. While it appears rare (other than in the case of Brazil) to have a specific prohibition for domain name registration enumerated, there does seem to be potential bases for challenges to be brought with respect to domain name registration, including potential challenges to registry operators or registrars for their roles in the registration chain.

For the names and acronyms of IGOs, ICANN's research focused on whether any special status afforded to those names and acronyms by virtue of the protection granted by Article 6ter(1)(b) of the Paris Convention could serve as a basis for liability. While this focus of research may not identify if there are individual IGOs for which a country has elected to provide heightened protections (outside of their 6ter status), this research provides insight to the status afforded to IGOs that can be objectively identified by virtue of their inclusion on the 6ter list. Many countries afford special protection to those IGOs listed on the 6ter, though there is often a registration, notice process, or member state limitation required through which each jurisdiction develops a list of the specific IGOs that it will recognize for protection. Therefore, among the jurisdictions where IGOs are provided heightened protection, the list of IGOs eligible for protections may not be uniform. With regard to our research related to IGOs and INGOs other than the RCRC and IOC, the research did not identify any universal protections that could be made applicable for IGOs or INGOs.

In nearly every jurisdiction, whether or not special protection exists for the IOC, RCRC or IGOs, there always remains the possibility that general unfair competition or trademark laws can serve as a basis for challenge to a specific delegation of a top-level name or the registration of a second-level domain name at any level of the registration chain. This survey does not assess the likelihood of whether liability would attach in those



circumstances. The potential for liability could factor in many issues, such as knowledge of potential infringement or improper use, the location of the registry or registrar, or the familiarity of the jurisdiction with the IGO at issue, as three examples.

Each registry operator and registrar has an independent obligation to abide by applicable laws. If registry operators or registrars have concerns about the potential for liability for its role in the delegation of a top-level domain or in the registration of a second-level domain within a particular jurisdiction, the responsibility for identifying the scope of that liability lies with the registry operator or registrar. Therefore, to avoid any suggestion that ICANN is providing legal advice to any of its contracted parties, the survey provided below notes the areas where the potential for liability could lie, but does not provide an assessment of the likelihood of that liability attaching.

When reviewing this survey, it is important to keep two items in mind. First, the suggestion that a registry or registrar could bear some liability for their role in domain name registrations is a broad concept, and the presentation of this survey is in no way suggesting that registries or registrars are at newfound risk of liability for all domain registrations within their registry or sponsorship. The presentation of this survey is looking at where certain entities (IGOs and INGOs) could be afforded heightened protections from use of associated names or acronyms within domain names because acts and laws already provide for heightened protections for the use of their names and acronyms. Second, the term “liability” is used broadly here. There are many factors that have to be considered for liability to attach to a registry or registrar, including the extent to which a jurisdiction recognizes “accessories” to acts of dilution or infringement, or how a jurisdiction defines a duty of care and the registry or registrar’s role in the registration chain. The term “liability” is not used here to indicate that there is certainty that a registry or registrar will (or should) face any challenge due to the registration of a domain name for which heightened protections may be claimed.



### Survey of Jurisdictions

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
Australia	<p>While there are no specific prohibitions for the use of names related to the IOC at the top-level or second-level, the <i>Olympic Insignia Protection Act 1987</i> (Cth) provides broad protections for the terms which could extend to domain names. The level of protection afforded to domain names appears to depend on how closely the domain name matches a protected Olympic expression. There may be exclusions based on prior registration of marks using some of the Olympic names.</p> <p>For RCRC names, the <i>Geneva Conventions Act 1957</i> (Cth) prevents any unauthorized use of specific RC related expressions, which would arguably apply to domain names at any level.</p>	<p>The <i>International Organisations (Privileges and Immunities) Act 1963</i> (Cth) gives effect to the 6ter list and prohibits the use of an IGO’s name (or acronym) in connection with a trade, business, profession, calling or occupation. The IGO must, however, also be specifically made a subject of legislation or regulations by the Australian Government to be afforded the protections of the Act. For the qualifying IGOs, there is the potential for liability through the registration chain where the use of an IGO name/acronym in a domain name is in contravention of the Act.</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
Brazil	<p>The Olympic Act, Law No. 12.035/2009 could be used to impose liability for the approval/registration of a TLD or second-level domain name, and explicitly mentions domain web sites as one of the areas of protections for marks related to the 2016 Olympic Games.</p> <p>Prior approval is needed for any usage.</p> <p>Certain Red Cross marks are protected under Decree 2380/1910. The 1910 decree does not mention domain names.</p> <p>Brazilian Civil Law Code could possibly be used as a basis for liability as well.</p>	<p>FIFA has similar protections to the Olympics Law under the “General World Cup Law” (Law no. 12.663/2012), and expressly directs NIC.br to reject “domain name registrations which utilizes identical or similar expressions / terms to FIFA’s trademarks.”</p> <p>More generally, Brazil has ratified the Paris Convention, however there are no specific provisions of law that relate to the protections of abbreviations and names of IGOs in Brazil. However, the fact of ratification could make attempts to bar delegation/registration at the top- or second-level, more successful in the country, however, the success of the challenge would vary from case to case.</p>
Canada	<p><i>Trade-marks Act</i>, R.S.C., 1985, c. T-13, Subsection (9)(1)(f) protects certain emblems and marks related to the Red Cross. The <i>Olympic and Paralympic Marks Act</i>, S.C. 2007, c. 25 (“OPMA”) protects marks related to the</p>	<p>The <i>Trade-marks Act</i>, at Subsections 9(1)(i.3) and 9(1)(m) provides protections for names of organizations appearing on the 6ter list, as well as for the United Nations. For names on the 6ter list, there is a requirement for entities on the 6ter to</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	<p>IOC (including translations). Some of the marks are also protected as official marks that are registered in Canada.</p> <p>While the statutes do not mention domain name registration, there is the possibility that the use of a name or acronym associated with these marks at the top-level or second-level could violate Canadian law.</p>	<p>communicate to the government which names are intended for protection. The use of those protected names or acronyms at the top-level or second-level (each without consent) could be a foul of the <i>Trade-marks Act</i>, though domain names are not specifically mentioned in the law.</p>
<p>China</p>	<p>Certain Olympic-related names and acronyms are provided protection under the Regulations on the Protection of Olympic Symbols ("Regulations"), which require the permission of the owner of the Olympic symbols to provide permission for their use. This is the one area where any heightened potential for liability for the delegation of a top-level domain was identified. Registrations of second-level domains could also be impacted under this provision. The domain name</p>	<p>Article 2(2) of the Notice Regarding the Implementation Solution of .CN Second Level Domain Name Registration specifically restricts the registration of the acronyms of 31 Inter-Governmental Organizations ("IGOs") as second level domain names to entities with the relevant authorities</p> <p>It is unknown how this restriction would be expanded into TLDs outside of the .CN registry.</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	<p>registration policies that exist within TLDs that are administered by CNNIC are subject to modification and broadening. Some second-level registrations for the RCRC are afforded some protections under these policies.</p>	
<p>France</p>	<p>Article L. 141-5 of the French Code of Sports provides protections to certain words and marks associated with the IOC, and has been used with: (i) Article L. 711-3 b) of the French Intellectual Property Code and/or (ii) Article L. 45-2 of the French Code of Posts and Electronic Communications to require cancellation of domain names bearing the protected words.</p> <p>Article 1 of French law dated July 24, 1913, as amended by French law dated July 4, 1939, implementing the provisions of the Geneva Convention for the Amelioration of the Condition of</p>	<p>Under French law, the Paris Convention is directly applicable (that is, an action can validly be grounded on such International treaty). Yet, Article 6ter(1)(b) of the Paris Convention does only provide for the prohibition to “use [IGOs], without authorization by the competent authorities, either as <u>trademarks</u> or as <i>elements of trademarks</i>”.</p> <p>Because of the status of the protection, liability could attach as a result of trademark law violations/unfair use of an IGO’s name or acronym as part of a domain name. There is also the potential for criminal liability based upon the unlawful use of an insignia regulated by a public authority. Notably, some</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	<p>the Wounded and Sick in Armies in the Field, dated July 6, 1906, provides protections for certain words and marks associated with the RCRC in France. While domain names are not specifically listed in the law, the broad language of the law has been used to prohibit registration of domain names using the restricted names.</p> <p>The improper delegation/registration or use of these names at the top- or second-level could possibly serve as a basis of liability.</p>	<p>IGOs could be provided with stronger protections than others by virtue of appearance on a list referred to in Article 3 of French Ministerial Order dated February 19, 2010.</p>
<p>Germ any</p>	<p>Certain Olympic designations are protected under the Olympic Emblem and Olympic Designations Protection Act (OlympSchG), a national statutory law.</p> <p>According to section 125 OWiG (Ordnungswidrigkeitengesetz - Administrative</p>	<p>There are no statutes that provide protection to IGOs on the basis of inclusion on the 6ter list.</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	<p>Offences Act), an administrative offence is deemed committed by any person who has used the symbol of the Red Cross, respectively the designations “Red Cross” or “Geneva Cross”, as well as any symbol or designation confusingly similar without authorization. The same applies to symbols and certain designations representing the Red Cross under provisions of international law (i.e. the Red Crescent).</p> <p>For either of these provisions, while domain name registrations are not specifically identified, those who are on notice of the infringing use of a name or acronym at the top or the second level could be held liable under the laws.</p>	
Japan	<p>The Unfair Competition Prevention Law (hereinafter referred to as “UCPL”) (Law No. 47 of 1993, as amended) prohibits unauthorized use of the names of international</p>	<p>While there are no direct legal barriers to the delegation of a top level domain or the registration of a second level domain name that matches a mark or acronym of an IGO that is defined under the Ministry</p>



<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	<p>intergovernmental organizations (“IGOs”) as trademark (Article 17 of the UCPL). This provision corresponds to Article 6ter (1) (b) and (c) of the Paris Convention for the Protection of Industrial Property (the “Paris Convention”).</p> <p>Specific IGOs that are protected under this statute are defined by ordinance of the Ministry of Economy, Trade and Industry. The IOC has specific names and acronyms protected under this provision.</p> <p>The name and mark of the Red Cross are already protected under the Law Regarding Restriction of Use of Mark and Name, Etc. of the Red Cross (Law No. 159 of 1947, as amended).</p> <p>While the laws do not directly address domain names at the top or the second level, the use of the IOC or</p>	<p>of Trade and Industry ordinance, the use of such words in a way that is found to be misleading can serve as grounds for liability, just as the use of IOC names or acronyms would.</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	<p>the RCRC names or acronyms at the top or second level (by entities other than the IOC/RCRC) could serve as grounds for liability under the laws.</p>	
<p>Mexico</p>	<p>The use of Red Cross and Red Crescent names is covered by 2007 law, which includes domain names.</p> <p>Mexico is a member of the Nairobi Treaty for the Protection of the Olympic Symbol, and affords the rights provided under that treaty. Article 71, General Law of Physical Culture and Sport (Published in the Official Journal of the Federation on February 24, 2003) provides protection for words associated with the Olympics, including Olimpico and Olimpiada.</p>	<p>Under Article 213 VII and IX of the Industrial Property Law and Article 90 VII of the Industrial Property Law, neither of which specifically mention domain names, the use of a name of an IGO in which Mexico takes part could serve as a basis for liability if evidence of authorization for the registration is not received.</p>
<p>South Africa</p>	<p>South African Red Cross has protection under a specific statute, the South African Red Cross Society and Legal Protections of Certain Emblems Act no. 10 of 2007.</p>	<p>Through the Trade Marks Act no 194 of 1993, Sections 10(8), 34, and 35, well-known marks appearing on the 6ter list are entitled to protection under trademark laws, even without registration, though there is a</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	<p>There is no specific protection in South Africa for IOC names, but the IOC does have registered marks in here that are afford protections under the Trade Mark Act discussed under the IGO section. Unregistered abbreviations may not be subject to protection.</p> <p>These protections could exist at the top- and second-level for domain names, though not specifically enumerated.</p>	<p>requirement to apply to South Africa for protection. Comparisons need to made about the class of service offered.</p> <p>IGO names could also be protected under the Prohibition of the Use of Certain Marks, Emblems and Words published under GN 873 in GG 5999 of 28 April 1978, as well as the Merchandise Marks Act no. 17 of 1941.</p> <p>None of these acts specifically mention domain names, though the use of the protected marks in top- or second-level domain names may serve as a basis for liability thereunder.</p> <p>The potential for liability arising out of domain name registrations can be seen in the Electronic Communications and Transactions Act no. 25 of 2002, which is applicable to the .za Domain Name Authority.</p>
South	Article 12(1) of the Korean Internet Address	Article 3(1) of the Korean Unfair Competition

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
<p>Korea</p>	<p>Resources Act (KIARA) states:                      “No one shall obstruct the registration of any domain name, etc. of persons who have a legitimate source of authority, or register, possess or use domain name for unlawful purposes, such as reaping illegal profits from persons who have a legitimate source of authority. “</p> <p>There are not statutes that appear to protect the top-level delegation or usage of a term related to the IOC/RCRC, unless those terms have the protection of the trademark laws or the protection of the KIARA. Second-level registrations are more likely to pose liability under the trademark laws or the KIARA. The laws do not specifically contemplate that entities other than the registrant would have liability, though there is no guarantee that none would attach.</p>	<p>Prevention and Trade Secret Prevention Act (KUCP &amp; TSPA) prohibits use of marks of international organizations, and specifically references international organizations and the Paris Convention.</p> <p>For use within a second-level domain name, the general KIARA, combined with the KUCP &amp; TSPA, provide the most likely sources of liability. The delegation of top-level domains containing these names and acronyms is less likely to be viewed as problematic under these statutes.</p>
<p>U.S.</p>	<p>There are two statutes that are relevant to the protection afforded to names or acronyms of</p>	<p>The US Patent and Trademark Office is required to refuse registrations of marks that conflict with</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	<p>the IOC in the United States: (1) 36 U.S.C. §§ 220501 <i>et seq.</i>, the Ted Stevens Olympic and Amateur Sports Act (the “Stevens Act”); and (2) 15 U.S.C. §§ 1051 <i>et seq.</i> (the Lanham Act). Specific words and combinations related to the Olympics and the Olympic Committee are protected from use, but the use of the word “Olympic” to identify a business or goods or services is permitted if it does not combine with any of the intellectual property references. The scope of protection provided, while it does not directly mention domain name registration at the top- or second-level, could be used as a bar to potentially infringing registration.</p> <p>The Red Cross is also afforded protection under the Lanham Act and is protected pursuant to 18 U.S.C. §§</p>	<p>registered marks of IGOs, so no registration is possible (once the marks are identified to the USPTO by a member country of the Paris Convention). No special protection seems to exist to bar the delegation of top- or registration of second-level domains containing the IGO names or acronyms by ICANN, a registry or registrar.</p>

<u>Jurisdiction</u>	<u>IOC/RCRC Protections</u>	<u>IGO Protections (or other INGOs, where applicable)</u>
	706, 706a, and 917. Allowing use of the protected terms at the top- or second- level – while not fully defined in the statutes and not addressing domain name registrations – could be used to impose liability.	