



Mrs. Margie Milam
ICANN Policy Department
Internet Corporation for Assigned Names and Numbers

Reference: 2012/000047554

Date: Monday, July 16, 2012

Comments on the "Preliminary GNSO Issue Report on the Protection of International Organization Names in New gTLDs"

Dear Mrs. Milan,

Under the assumption that it falls within the remit of the International Criminal Court ["the Court"] as an observer to the GAC to provide comments to the "Preliminary GNSO Issue Report on the Protection of International Organization Names in new gTLDs" ("the Preliminary Issue Report"), or to provide such comments as part of the "Public Comment" process, the Court welcomes this opportunity to comment on the Preliminary Issue Report.

With regards to its comments, the Court aims to ensure that the ICANN will [i] afford adequate protection of the IGO's and moreover that [ii] ICANN pursues a consistent, legal-based and fact-based approach in its decision regarding the protection of IGO's.

With respect to the current process followed by ICANN, the Court observes an approach whereby ICANN has singled-out specific organizations and applied inconsistent criteria to retrospectively justify its decisions and positions. The process followed to single-out specific organizations also seems also in contrast to the bottom-up approach which in the past used to be the approach for such developments.

The definitions chosen in the Preliminary Issue Report to define organizations are ambiguous and subjective. Such confusion is not helpful and not necessary as well defined criteria exist. As it is in the interest of ICANN to apply well-defined & transparent criteria that yield manageable numbers, the Court refers to the WIPO 6ter database that holds the protected names and acronyms of IGO's. The WIPO 6ter database would establish a binary decision mechanism, allowing the ICANN to steer away from discussion around self-developed and

potentially biased definitions. It is worthy of note that the number of IGO's in the WIPO 6ter database would be limited to 147.

Further, the Preliminary Issue Report states that "to date, there has been no information submitted to demonstrate that IGOs suffer [..]" This is not only 'cheating' as no such information was requested from the IGO's at large for the current process but even factually incorrect as examples of abuse of names and acronyms of IGOs were provided in 2004 and 2007.

The Preliminary Issue Report backtracks of the clear 2-tier criterion approach [after recognition that the exceptions made did not actually meet this criterion] to propose six highly subjective criteria [such as size, treaty signers & media presence] that would determine whether an organization should qualify for special protection. But how will be determined how long an existence is long enough? How many member states is enough? Are all states equal to ICANN? How many offices is enough to be global and how many people must have heard of an IGO to count?

In contrast, objective criteria like status under international law, privileges and immunities enjoyed, the principal source of financing, as well as the protection of common goods and values, have been left out.

The Court would welcome the initiation of a Policy Development Process provided that such PDP would be concluded in expeditious manner and that such process be carried out on the basis of fair, objective and justified criteria and a proper evaluation of fact and law.

Furthermore the Court requests that IGO names and acronyms be protected with respect to gTLDs as outlined in the Common Position Paper Regarding Protection of IGO Names and Acronyms, and it related Annex, both as submitted to the GAC Chair by the OECD and other IGO representatives, in May 2012. In addition, the Court fully supports the comments submitted on 25 June by the United Nations, OECD and other IGOs and would like to be included in the list of organizations that made these comments.

I would like to thank you for your cooperation in this matter.

Sincerely yours,



Roeland Stouthart

Information Security Officer / GAC Observer