Report of Public Comments

Title:	Final Report on Protection of IGO and INGO Identifiers in All gTLDs
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Section I: General Overview and Next Steps

At its October 2012 meeting, 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 taken in this context to subsume the issues related to protection of IGO and INGO Identifiers in both existing and new gTLDs, and at both the top and second levels. The WG first published an Initial Report for public comment, followed by a draft final report that contained a series of recommendations for protections. This document is a general report of the public comments received and subsequently deliberated on in preparing the WG's Final Report.

As part of its deliberations, the WG Charter required the PDP WG to consider the following questions:

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, and International Non-Governmental Organizations (INGOs) receiving protections under treaties and statutes under multiple jurisdictions, specifically including identifiers of the Red Cross/Red Crescent Movement (RCRC), and the International Olympic Committee (IOC). In deliberating this issue, the WG was tasked to 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

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.

The IGO-INGO PDP WG analyzed and evaluated all comments received from the forum posted in relation to the WG's draft final report. The WG's consideration of the comments as well as any changes to the report and its proposed final policy recommendations are documented in drafts leading up to the final report which was submitted to the GNSO Council on 10 November 2013. Drafts of the report can be found of the WG's Community Wiki page. The final report will be submitted to the GNSO Council for its consideration at its October meeting in Buenos Aires.

Section II: Contributors

At the time this report was prepared, a total of twenty three (23) community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the summary that follows (Section III), such citations will reference the contributor or organization represented.

Organizations and Groups:

Name	Submitted by
RySG	Chuck Gomes
ALAC	Olivier MJ Crepin-Leblond
CBUC	Steve DelBianco

Individuals:

Name	Affiliation (if provided)
Charles Christopher	CIO Alfena.com, and ICANN Accredited Registrar
Ed Lehmann	Individual
Michael Meyer	National Red Cross and Red Crescent Society
Phil Corwin	Internet Commerce Association
Sergio De Gregori	Individual – Perhaps IGO?
Brian Beckham	Valideus
George Kirikos	leap.com
J. Hureau	Individual
Alex Lerman	Individual
Chip Meade	Market Lift
Nat Cohen	Telepathy, Inc.
Paul Tattersfield	GPM Group
Patrick Quinn	Allegheny Internet, LLC

Jay Chapman	Individual
Joseph Peterson	Individual

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

General Comments

The IGO-INGO created a Public Comment Review Tool (PCRT) in which all comments were imported noting the author, any WG response and a Recommended Action where necessary. To facilitate WG review of the comments, staff created an Abstract summary of each submission for discussion in WG conference calls, with WG members expected to have read the full comments in preparation for the meetings. The abstracts are included below, but do not replace the full substance of the commenter's position showing support or lack of support for a proposed recommendation. Finally, the PCRT comments were categorized by major threads as discussed during the WG deliberations on the various issues being analyzed. Abstracts are listed below:

General Comments (or responses classified to the entire package of WG's recommendations):

RySG:

ABSTRACT: The RySG provided a detailed response to the set of the IGO-INGO recommendations. Much of their position remained the same as that described at WG level, with a few small changes in relation to INGOs. Refer to RySG spreadsheet within their comment.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00014.html

Charles Christopher:

ABSTRACT: Participant does not support any recommendation to reserve strings and believed that if any reservations were created it will disrupt the internet market place.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00016.html

Ed Lehmann:

ABSTRACT: Participant does not support any recommendation to reserve strings in all TLDs; nor recovery of domains within incumbent TLDs

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00010.html

National Red Cross and National Red Crescent Societies:

ABSTRACT: Encourage WG to continue support of Recommendations in Section 5.1 (recs #1, 4,5, & 8) and encourage WG to endorse Recommendations in Section 5.1 (recs #2, 3, 6, 7)

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00018.html

ALAC / Olivier Crépin-Leblond:
1. The ALAC is particularly concerned that granting blocking-level protections may prohibit other reasonable uses of the same strings and the ALAC is not satisfied that the exception procedures outlined in the report would be effective.
2. This being the case, it may be important to consider the principles that guided the ALAC, in our participation in the activities that led to this report, and that the ALAC believes should guide ICANN in considering any special protections.

a. ICANN should grant special protection to organizations that further the public interest and in particular, those with a strong track record of humanitarian activities. However, such protections should only be granted where there is a history or reasonable expectation that the lack of protections would lead to the misrepresentation of the organizations, fraud, deliberate confusion, or other malfeasance.

b. Such protections, when granted, should not unreasonably impinge on the ability of others with a valid right to use the protected string, from registering such names for uses which do not negatively impact the protected organization nor use to the protected name with the intent to deceive users. Formal trademarks should not be necessary to demonstrate such a right.

c. The procedures used to grant the protection exceptions identified in number 2 must be both inexpensive and fast.

d. No top level protections are necessary. Existing or new objection processes are sufficient.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00020.html

CBUC / Steve DelBianco:
ABSTRACT: The CBUC provided a detailed response to the full set of the IGO-INGO recommendations. Their position is better reviewed in detail rather than an abstract summary. Refer to the CBUC Word doc within their comment.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00021.html

Top-Level Protections:
ICA / Phil Corwin:
ABSTRACT: Association can support reservation protection of exact match full names at the top-level, but does not support any recommendation to reserve acronyms. They considered existing new gTLD objections processes as sufficient to prevent application of a protected identifier.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00009.html

Second-Level Protections:
ICA / Phil Corwin:
ABSTRACT: Association supports reservation and/or TM Claims protection of exact match full names at the second-level, but does not support any recommendation to reserve acronyms or use of Claims notifications. They support the possible use of curative RPMs.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00009.html

Eligibility Criteria:
Sergio De Gregori:
ABSTRACT: Participant supports protection of IGO acronyms. IGOs do have a legal basis for reservation protection of acronym identifiers and it is also consistent with ICANN's mission.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00006.html

National Red Cross and National Red Crescent Societies:
Legal basis for protections is supported via 1949 Geneva Convention and protocols including legislation in 130 countries
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00018.html

Exception Procedures:

Brian Beckham:

ABSTRACT: Exception Procedure should be amended for third parties and reflect co-existence principles under international law.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00019.html

Policy in Incumbent gTLDs:

George Kirikos:

ABSTRACT: No support for policy changes that would affect the rights of existing domain names. Even for new gTLDs, such protections are not warranted. The most famous marks of IGOs already have strong protection in law, and can be asserted via existing policies like the UDRP. Any changes, at most, should only affect freshly registered domain names (e.g. in new gTLDs), so that registrants were aware of the policy *before* they registered such names. If there are to be any policy changes, they should be designed in such a way to subsidize UDRP costs for qualified IGOs, rather than maintaining reserve lists. That can address real abuse in a cost-effective manner. Where no significant abuse occurs, ICANN should not be considering policy changes.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00000.html

J. Hureau:

ABSTRACT: Participant does not support any recommendation to reserve or recover strings in existing TLDs because the rights of organizations seeking protection do not supersede those of other legitimate entities.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00001.html

Alex Lerman:

ABSTRACT: Participant does not support any recommendation to reserve or recover strings in existing TLDs

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00002.html

Chip Meade:

ABSTRACT: Participant does not support any recommendation to reserve or recover strings in existing gTLDs and prefers that no protections are granted in new gTLDs, because the rights of organizations seeking protection do not supersede those of other legitimate entities.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00003.html

Nat Cohen:

ABSTRACT: Participant does not support any recommendation to reserve or recover acronym identifiers in existing gTLDs, because the rights of organizations seeking protection do not supersede those of other legitimate entities. Seemed to support protection of IOC, RCRC identifiers, but did not reference its scope.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00005.html

Paul Tattersfield:

ABSTRACT: Participant does not support any recommendation to reserve or recover acronym identifiers in existing gTLDs, because the rights of organizations seeking protection do not supersede those of other legitimate entities.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00007.html

Patrick Quinn:

ABSTRACT: Participant does not support any recommendation to reserve or recover acronym identifiers in existing gTLDs, because the rights of organizations seeking protection do not supersede those of other legitimate entities.

http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00008.html

ICA / Phil Corwin:

ABSTRACT: Association does not support any recommendation to reserve or recover identifiers in existing gTLDs, because

the rights of organizations seeking protection do not supersede those of other legitimate entities. They do support the possible use of curative RPMs.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00009.html

Jay Chapman:
ABSTRACT: Participant does not support any recommendation to reserve or recover acronym identifiers in existing gTLDs, because the rights of organizations seeking protection do not supersede those of other legitimate entities.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00011.html

Joseph Peterson:
ABSTRACT: Participant does not support any recommendation to reserve or recover acronym identifiers in existing gTLDs, because the rights of organizations seeking protection do not supersede those of other legitimate entities. Such policies will infringe on rights of free speech.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00012.html

Minority Positions:
George Kirikos:
ABSTRACT: Participant does not support any recommendation to reserve or recover acronym identifiers in existing gTLDs, because the rights of organizations seeking protection do not supersede those of other legitimate entities. This was a response to the NCUC minority statement in the Draft Final Report.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00000.html

UPU:
ABSTRACT: Minority statement within RySG response; Participant supports reservation protections of full name and acronym identifiers because IGOs are afforded status under international law and treaty serving the public interest. Protection of the IGO identifiers is in line with ICANN mission and aligns with GAC advice. Without acronym protections the remaining recommendations are insufficient (Extracted from RySG Public comment submission).

Replies to Comments:
George Kirikos:
ABSTRACT: Participant does not support any recommendation to reserve or recover acronym identifiers in existing gTLDs adding that this issue had been rejected by the community in the past. Participant questions reference to Article 6ter as basis for legal protection. Participant notes existing temporary protections of the new gTLD Spec 5 conflict with what will be competing legitimate use by more than one party, and notes that these organizations seeking protection already have their "carve-outs" in existing TLDs like .int
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00015.html

George Kirikos:
ABSTRACT: Participant does not support any recommendation to reserve or recover acronym identifiers in existing gTLDs, noting that IOC and RCRC have already filed successful UDRPs, but only with low volume and perhaps indicates insufficient harm to warrant a policy change and that UDRP is effective.
http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00017.html

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

The WG submitted the Draft Final Report recommendations categorized by the organizations seeking

protection although the WG Chair's assessment of the levels of WG consensus for each recommendation was not necessarily the same. The report was organized this way so that readers could better understand the spectrum of protections being considered for each type of organization. Specifically, recommendations that received minimal support were combined with those that received consensus. In its deliberations of the public comment, the WG acknowledged that this may have created confusion for readers of the Draft Final Report. Based on this community feedback and finalization of the WG's recommendations, the WG modified the Final Report so that group categories were still maintained by organization, but only with those recommendations containing "Full Consensus", "Consensus" or "Strong Support but Significant Opposition" included.

A Public Comment Review Tool was utilized by the WG to facilitate its review of the public comments received for the Draft Final Report. Brief summaries of the major categories in which the comments were divided for more detailed review are as follows:

General Comments (or responses to the entire package of W recommendations):

- The RySG, ALAC, and CBUC provided detailed responses to each of the WG's proposed recommendations. The RySG and ALAC positions remained the same, as outlined in previous submissions, in regards to the recommendations, with a few small changes in support of recommendations for INGOs.
- The CBUC submitted their position for the first time in the WG's deliberations and the WG Chair adjusted a few consensus levels accordingly (as reflected in the Final Report).
- Given the detailed submissions from these groups, staff recommends that readers of this Report of Public Comments review their full submissions.
- The RCRC also reiterated its support for protections of all proposed identifiers and the legal basis by which such protections should be afforded.
- Conversely, a few community members stated their opposition to any reservation protections being granted regardless of the organization or protections at the top or second level.

Top-Level Protections:

- One submission specifically stated support of identifier reservations of full-name only at the top level, but opposed any protection for acronyms noting that existing gTLD objection procedures were sufficient.

Second-Level Protections:

- One submission specifically stated support of identifiers reservation and/or TMCH Claims for full-name only at the second level, but opposed any protection for acronyms noting that it was acceptable that existing curative RPMs could be used.

Eligibility Criteria:

- IGOs and RCRC restated support for reservation protections noting the legal basis by which the organizations are structured should suffice as meeting any eligibility criteria established by the WG. Serving the public interest that is also consistent with ICANN's mission was also supporting reasons to be granted protections.

Exception Procedures:

- One submission stated that if any exception procedure were to be granted the exception procedure should be amended to reflect co-existence principles for legitimate third party use. Further, if permanent claims notifications were to be implemented, then the equivalent should be implemented

of all owners of validated trademark rights.

Policy in Incumbent gTLDs:

- Several of the comments submitted by community members opposed the reservation of names, especially when recovery of names in existing gTLDs was concerned. Many specifically stressed opposition with regards to acronyms on the basis of existing property rights.
- The bulk of the comments received complemented the WG's opposition to reservation protections of acronyms. While the method of displaying the WG's current level of support, ("Divergence") for reservation of acronyms within the Initial Report caused confusion for some readers, the message was clear that the community did not support this recommendation, except only those organizations that would receive such protection. As a result, the WG continued deliberations on the best way to reflect the WG's lack of support for acronym protections. Ultimately, "Consensus Against" was assigned to the recommendations as more accurately reflecting the fact that acronym reservation of organizational identifiers was not supported by most of the WG.

Minority Positions:

- One submission countered a minority position within the Draft Final Report submitted by the NCUC stating that their position superseded the rights of others within the existing gTLD space.
- As part of the RySG submission, the UPU (a RySG member) submitted a minority statement stating that IGOs should be afforded protections based on international laws and that the proposed recommendations were not adequate to cover the current expansion of gTLDs. Specifically, it advocated protection of acronyms for IGOs aligned with GAC advice and ICANN's mission to serve the public interest.

Replies to Comments:

- Two replies were submitted in response to comments within the public comment period. One response noted that the issue of protecting acronyms had been rejected by the community in the past and that the .int TLD was already reserved especially for these types of organizations.
- The second response noted that the IOC and RCRC had already submitted successful UDRPs in the past and that the small amount perhaps suggested insufficient harm to warrant the proposed protections.