OPEN LETTER FROM INTERGOVERNMENTAL ORGANIZATIONS ON THE EXPANSION OF GENERIC TOP LEVEL DOMAINS

Mr. Rod Beckstrom, CEO and President
Mr. Steve Crocker, Chairman, Board of Directors
Mr. Kurt Pritz, Senior Vice President
Internet Corporation for Assigned Names and Numbers (ICANN)
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601
United States of America

By email: rod.beckstrom@icann.org; steve@shinkuro.com; kurt.pritz@icann.org
cc: Governmental Advisory Committee: gac@gac.icann.org; heather.dryden@ic.gc.ca
     ICANN Legal Counsel: jeffrey@icann.org; amy.stathos@icann.org

Re: Protection Against the Misleading Use of the Names and Acronyms of International Intergovernmental Organizations in the Domain Name System

We, the Legal Counsels of the public international intergovernmental organizations (IGOs) indicated hereunder are writing to convey to you the concerns of the IGO community. The IGO community concerns relate to the increased potential for the misleading registration and use of IGO names and acronyms in the domain name system under ICANN's significant expansion plans.

Against this background, we formally request ICANN to make provision for a targeted exclusion of third party registrations of the names and acronyms of IGOs both at the top and second level, at least during ICANN's first application round and until further appropriate policy could be developed. We request for these changes to be communicated to the Internet community and included in an updated version of the Applicant Guidebook before January 12, 2012.

As you would be aware, IGOs represent a wide range of vital causes such as public health, labor practices, food security, peace-keeping operations, containment of weapons proliferation, sustainable economic and social development and reconstruction, trade and commerce standards, children’s rights, refugees, disaster relief, fundamental scientific research and other public policies. Abusive registration of IGO names and acronyms harms these causes. It also imposes a serious enforcement burden on IGOs, which should not have to divert their public resources for this purpose. We believe it to be incumbent on ICANN as the mandating agency of the domain name system to implement appropriate policy measures to help mitigate these harms. IGOs are created by treaty, they are the subject of international law like states, and they deserve the same treatment.

Such measures would also find support in international legal norms. The names and acronyms of IGOs are protected within the scope of Article 6ter of the Paris Convention for the Protection of Industrial Property (with 173 Contracting Parties), as further referred to in Article 16 of the
Trademark Law Treaty and Article 2 of the WTO Agreement on Trade Related Aspects of Intellectual Property Rights. We also note that the “GAC Principles Regarding New gTLDs” of ICANN’s Governmental Advisory Committee call on ICANN to make proper allowance for IGO protection in the domain name system.

The curative, resource-intensive objection option currently foreseen for IGOs in ICANN’s Applicant Guidebook fails to do justice to the above public policy and legal considerations. Consistent with the rationale for protection envisaged for the important causes represented by the International Federation of Red Cross and Red Crescent Societies and the International Olympic Committee, at minimum, provision should be made to exclude registration by third parties of protected IGO names and acronyms at the top level during the initial application round. In addition, we call upon ICANN to implement such a preemptive mechanism for IGOs at the second level.

Whether involving peacekeeping operations around the world, health, education, reconstruction, sustainable development, emergency relief, research or fundraising, the integrity of IGO identities on the Internet serves internationally-recognized causes for a global population. Going forward, ICANN’s development of the domain name system must demonstrate a capacity for serving that public interest within existing legal norms.

Thank you for your attention to this matter.

List of signatories (alphabetical order by Organization):

Kalidou Gadio
General Counsel
African Development Bank (AfDB)

Akbar Khan
Director, Legal and Constitutional Affairs Division
Commonwealth Secretariat

Emmanuel Maurice
General Counsel
European Bank of Reconstruction and Development (EBRD)

Laura Comendador Frutos
Head of the Legal Service
European Organization for Astronomical Research in the Southern Hemisphere (ESO)

Eva-Maria Groniger-Voss
Legal Counsel
European Organization for Nuclear Research (CERN)
Marco Ferrazzani,
Legal Counsel and Head of the Legal Department
European Space Agency (ESA)

John Scott
General Counsel a.i.
Inter-American Development Bank (IADB)

Peri Johnson
Director of the Office of Legal Affairs
International Atomic Energy Agency (IAEA)

Rutel S.J. Martha
General Counsel
International Fund for Agricultural Development (IFAD)

Luc Derepas
Legal Adviser
International Labour Organization (ILO)

Rosalie Balkin
Director of Legal Affairs and External Relations
International Maritime Organization (IMO)

Sean Hagan
General Counsel and Director of the Legal Department
International Monetary Fund (IMF)

Johan Rautenbach
Legal Counsel
International Organization for Migration (IOM)

Arnaud Guillot
Legal Adviser
Head, Legal Affairs Unit
International Telecommunication Union (ITU)

Heikki Cantell, General Counsel
Christina Stenvall-Kekkonen, Chief Counsel
Nordic Investment Bank (NIB)

Peter Olson
Legal Adviser
North Atlantic Treaty Organization (NATO)

Nicola Bonucci
Director for Legal Affairs
Organisation for Economic Co-operation and Development (OECD)
Santiago Oñate
Legal Adviser
Organisation for the Prohibition of Chemical Weapons (OPCW)

Patricia O’Brien
Under-Secretary-General for Legal Affairs and Legal Counsel
United Nations (UN)

Maria Vicen-Milburn
General Counsel
United Nations Educational, Scientific and Cultural Organization (UNESCO)

Behrouz Moradi
Legal Adviser
Director, Office of Legal Affairs
United Nations Industrial Development Organization (UNIDO)

Odile Meylan Bracchi
Director Legal Affairs, Ethics Officer
Universal Postal Union (UPU)

Anne-Marie Leroy
Senior Vice President and Group General Counsel
World Bank Group (WB)

Gian Luca Burci
Legal Counsel
World Health Organisation (WHO)

Edward K. Kwakwa
Legal Counsel
World Intellectual Property Organization (WIPO)

Brigitta Exterkate
Legal Counsel
World Meteorological Organization (WMO)

Alain Pellet
Legal Adviser
World Tourism Organization (UNWTO)

Yves Renouf
Legal Counsel
World Trade Organization (WTO)