



# IGO/INGO Protection PDP Working Group (WG) Charter

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|--|---|--|
| <b>WG Name:</b>  | IGO/INGO Protection PDP Working Group   |  |
| <b>Section I: Working Group Identification</b>   |   |  |
| <b>Chartering Organization(s):</b>   | GNSO Council  |  |
| <b>Charter Approval Date:</b>  |   |  |
| <b>Name of WG Chair:</b>   |   |  |
| <b>Name(s) of Appointed Liaison(s):</b>  | TBA   |  |
| <b>WG Workspace URL:</b>   |   |  |
| <b>WG Mailing List:</b>  |   |  |
| <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<br><a href="http://gns0.icann.org/en/resolutions#201210">http://gns0.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://gns0.icann.org/en/issues/protection-igo-names-final-issue-report-01oct12-en.pdf">http://gns0.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://gns0.icann.org/en/issues/ioc-rcrc-recommendations-28sep12-en.pdf">http://gns0.icann.org/en/issues/ioc-rcrc-recommendations-28sep12-en.pdf</a>)</li> <li>• GNSO Working Group Guidelines (<a href="http://gns0.icann.org/council/annex-1-gns0-wg-guidelines-08apr11-en.pdf">http://gns0.icann.org/council/annex-1-gns0-wg-guidelines-08apr11-en.pdf</a>)</li> <li>• GNSO PDP Manual (<a href="http://gns0.icann.org/council/annex-2-pdp-manual-16dec11-en.pdf">http://gns0.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.

The PDP WG shall be divided into two subgroups, as follows:

- **Subgroup A** will develop, at a minimum, recommendations to protect the RCRC and IOC names at the second level of the initial round of new gTLDs in response to the Board request to do so by 31 January, 2013.
- **Subgroup B** will develop, at a minimum the relevant recommendations for any special permanent protections for certain IGO and INGO names and acronyms, including the RCRC and IOC, at the top and second level of all gTLDs.

**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) WG Subgroup A shall exert its best efforts to produce recommendations that with regard to the protection of RCRC and IOC names at the second level of the initial round of new gTLDs, [and also, the protection of IGO names that meet the criteria for .INT domain name registration] could be acted upon by the ICANN Board’s requested deadline of 31 January 2013;
- 2) WG Subgroup B shall strive to produce recommendations for all other qualify international 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 follow the attached suggested work plan

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 ICANN Supporting Organizations and Advisory Committees
- Distribution of the announcement to appropriate representatives of IGOs, the RCRC and IOC.

#### Working Group Roles, Functions, & Duties:

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.

Staff assignments to the Working Group:

- GNSO Secretariat
- 2 ICANN policy staff members (Brian Peck, Berry Cobb)

The standard WG roles, functions & duties shall be applicable as specified in Section 2.2 of the Working Group Guidelines.

#### Statements of Interest (SOI) Guidelines:

Each member of the Working Group is required to submit an SOI in accordance with Section 5 of the GNSO Operating Procedures.

### Section IV: Rules of Engagement

#### Decision-Making Methodologies:

*{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}.*

The Chair will be responsible for designating each position as having one of the following designations:

- **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. *[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.]*

- **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 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.
- **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:

1. Send email to the Chair, copying the WG explaining why the decision is believed to be in error.
2. 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.
3. 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 |
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