

To: ASO, GNSO, ccNSO, GAC, ALAC, SSAC

From: ICANN Cross Community Working Group on Internet Governance

Date: 28 October 2016

The CCWG-IG wishes to bring the following issue of concern to your attention:

Proposal to amend World Telecommunication Standardization Assembly Resolution 47

The members of the ICANN Cross Community Working Group on Internet Governance (CCWG-IG) express serious concerns about the proposals currently being presented by the African Telecommunications Union (ATU) on behalf of several countries to the World Telecommunication Standardization Assembly (WTSA) regarding the use of geographic terms for top level domains. We respectfully submit that this is not a telecommunications standardization issue, and that international law and policy regarding the use of geographic indicators in top level domains is within the remit of ICANN and not the ITU. In developing and implementing policy related to the use of geographic indicators in top level domains, ICANN is governed by (1) relevant international law and (2) ICANN-specific policies developed through the bottom-up multistakeholder policy development process, which is informed by Advice from ICANN's Governmental Advisory Committee ("GAC"). Moreover, the current proposals contradict previous commitments that the ITU-T is not, and will not become, a policy development body for the technical infrastructure of the Internet.

In particular, the African Telecommunications Union's (ATU) proposal to amend Resolution 47 seeks to subordinate the ICANN process. Whatever the substance and merits of the ATU's concern regarding the process being followed with respect to applications for the top level domain, ".Africa," ITU-T is not an appropriate forum for resolving this ongoing dispute. Furthermore, it is not appropriate to use this dispute to attempt a unilateral and wholesale change in policy development boundaries.

The full proposal can be downloaded from here: [African Telecommunication Union Administrations: PROPOSED MODIFICATION OF RESOLUTION 47 - COUNTRY CODE TOP-LEVEL DOMAIN NAMES AND GEOGRAPHIC NAMES](#)

The proposal's resolution is quoted in Appendix A of this Statement.

How does the ICANN stakeholder community treat applications for new top level domains with geographical names or indicators?

As stated above, the use of geographic names in generic Top Level Domains (gTLDs) is covered by ICANN policy development processes, informed by GAC Advice.

All Policies for individual Country Code Top Level Domains (ccTLDs) are the remit of that particular relevant country or territory's Internet community, subject to the rule of law within that country or territory. General policy for ccTLDs is developed by the Country Code Name Supporting Organisation (ccNSO) at ICANN, which is informed by GAC input and advice. Based on the ccNSO Study Group on the use of Country and Territory Names, which published its

Final Report in September 2013, (<http://ccnso.icann.org/node/42227>) a cross-community Working Group was chartered together with the Generic Names Supporting Organization (GNSO) in March 2014, with the following objectives:

- Further review the current status of representations of country and territory names, as they exist under current ICANN policies, guidelines and procedures;
- Provide advice regarding the feasibility of developing a consistent and uniform definitional framework that could be applicable across the respective SO's and AC's; and
- Should such a framework be deemed feasible, provide detailed advice as to the content of the framework.

Membership in the ccNSO-GNSO CWG on the Use of Country and Territory Names was open to members of the participating ICANN Supporting Organisations (SO) and Advisory Committees (AC). Each of the participating SOs and ACs appointed members to the WG in accordance with their own rules and procedures, which included providing a Statement of Interest if required. There was a minimum of one representative from each participating SO and AC. The CWG has unanimously recommended that the ICANN community consolidate all policy efforts relating to geographic names (as that term has traditionally very broadly been defined in the ICANN environment to this point) to enable in-depth analyses and discussions on all aspects related to all geographic-related names at all levels of the Domain Name System (DNS). The CWG's work is ongoing and new participants may still be able to get involved.

Role of Governments

Governments participate in ICANN processes through membership in ICANN's Governmental Advisory Committee (GAC). The GAC membership comprises 167 public administrations worldwide and two regional commissions: the African Union Commission (AUC) and the European Commission. The ATU is one of the 35 observer IGOs on the GAC and thus also has the opportunity to contribute to ICANN policy development relating to this issue.

It is important to note that the GAC issued a set of principles in March 2007 to guide the treatment by ICANN of sensitive names and words, including geographical names, in relation to proposals for new gTLDs. (GAC Principles Regarding New gTLDs - <https://archive.icann.org/en/topics/new-gtlds/gac-principles-regarding-new-gtlds-28mar07-en.pdf>) This document stated in particular at para 2.2 that "ICANN should avoid country, territory or place names and country, territory or regional language unless in agreement with the relevant governments or public authorities." This principle was subsequently enacted in paragraph 2.2.1.4.2 of the Applicant Guidebook on procedures for new gTLD applicants - <https://newgtlds.icann.org/en/applicants/agb>

The GAC actively monitors compliance with these provisions and individual GAC members have issued "Early Warning" notices to new gTLD applicants where necessary. The GAC has also submitted formal advice to the ICANN Board on individual applications for geographical name

gTLDs in accordance with procedures set out in Article XI of the ICANN Bylaws - <https://gacweb.icann.org/display/gacweb/ICANN+Bylaws>.

The Cross Community Working Group on Internet Governance (CCWG-IG), asks its Chartering Organisations to keep engaged and diligent regarding this issue.

By way of background, Resolution 47 was first passed at the 2004 WTSA in Florianópolis and has been amended at every quadrennial WTSA since then. The United States has tabled a resolution at the 2016 WTSA seeking the suppression of Resolution 47 in its totality. The text of their resolution is contained in the Appendix B.

APPENDIX A

The full proposal can be downloaded from here: [African Telecommunication Union Administrations: PROPOSED MODIFICATION OF RESOLUTION 47 - COUNTRY CODE TOP-LEVEL DOMAIN NAMES AND GEOGRAPHIC NAMES](#)

The proposal instructs ITU-T Study Group 2:

1 *to continue studies, and to work with Member States and Sector Members, in their respective roles, recognizing the activities of other appropriate entities, to review Member States' ccTLD experiences,;*

2 *to study necessary measures that should be taken to ensure that country, territory and regional names must be protected and reserved from registration as new gTLDs; and that these names should include but not be limited to capital cities, cities, sub-national place names (county, province or state) and geographical indications;*

3 *to study, in collaboration with relevant bodies, on ways and means to maintain the right of Member States to request the reservation and to oppose the delegation of any top-level domain (even if it is not included on that list) on the basis of its sensitivity to regional and national interests,*

instructs the Director of the Telecommunication Standardization Bureau

to take appropriate action to facilitate the above and to report to the ITU Council annually regarding the progress achieved in this area,

invites Member States

1 *to contribute to these activities,;*

2 *to enhance national reference in the ISCO 3166-2 list with different divisions and subdivisions in order to satisfy the national requirements and needs;*

3 *to submit requests to ensure that regions and sub-regions are included in this important reference list,*

further invites Member States

to take appropriate steps within their national legal frameworks to ensure that issues related to delegation of country code top-level domains are resolved.

Appendix B

The full text of the US Resolution can be found [here](#).

United States of America

Proposed suppression of WTSA-12 Resolution 47 - Country code top-level domain names

Abstract: *Consistent with the TSB Director’s proposed guidelines regarding WTSA Resolutions contained in TSAG TD 532, the absence of any reported requests for TSB action from member states, and the continuing existence of PP Resolution 102, the United States believes that WTSA Resolution 47 is no longer necessary.*

Introduction

WTSA Resolution 47 was adopted in 2004, and reconfirmed at WTSA 2008 and WTSA 2012. The Resolution instructed ITU-T Study Group 2 to continue studies and to work with Member States and Sector Members, recognizing the activities of other appropriate entities to review Member States’ ccTLD experiences. It also invites Member States to contribute to these studies. A review of the WTSA-12 Action Plan, a monitoring and implementation tool utilized by the TSB that tracks the actions items, their associated responsibilities necessary collaborations, reports, and final status, indicates that ITU-T Study Group 2 took no actions the last four years. Furthermore, for the 2012-2016 study period, the Action Plan indicates that the goals for Resolution 47 were not met. Yet, this likely is due to the lack of Member State contributions regarding their ccTLD experiences. The Action Plan further indicates that as instructed by the 2014 Plenipotentiary, the TSB Director reports annually in the Council document on “ITU Internet activities: Resolutions 101, 102 and 133”, which includes updates regarding ccTLDs, if

any. The TSB's Director annual reports to the ITU Council have not included specific references to work conducted in conjunction with Resolution 47.

Proposal

The United States proposes the suppression of Resolution 47 for the following reasons:

- *The problems that existed in the past with some ccTLDs are non-existent today. For the most part, national governments have developed governance policies for their ccTLDs which managers and operators are following. The lack of contributions to Study Group 2 addressing Resolution 47 itself is a clear indication that there is no continuing need for this Resolution;*
- *The TSB Director's Analysis of the evolution of WTSAs Resolutions since 1993 and a proposal for guidelines for drafting WTSAs Resolutions (TSAG TD 532), which questions the need for WTSAs Resolutions that duplicate an existing Plenipotentiary Conference resolution (PP Resolutions 101, 102 and 133 address the same issues as WTSAs Resolutions 47;*
- *The WTSAs-2012 Action Plan, Version 6 report (12 September 2016), which indicates the absence of contributions from Member States to Study Group 2 and the periodic goals were not met.*