

09 December 2021

RE: PROTECTIONS FOR INTERNATIONAL GOVERNMENTAL ORGANIZATIONS

Mr. George Kirikos
President
Leap of Faith Financial Services, Inc.

Dear Mr. Kirikos,

Thank you for your email dated 15 October 2021.

Whether and how to protect the names and acronyms of International Governmental Organizations (IGOs) in generic top-level domains (gTLDs) has been a longstanding issue both in and outside ICANN. As early as 2001, the [Second WIPO Internet Domain Name Process](#) examined bad faith registrations and use of a range of identifiers other than trademarks in the domain name system, including IGO names and acronyms. During the development of ICANN's 2012 New gTLD Program, the Governmental Advisory Committee (GAC) issued [Principles regarding New gTLDs](#) recognizing that the introduction of new gTLDs must *"make proper allowance for prior third party rights, in particular trademark rights as well as rights in [IGO] names and acronyms"*. The GAC has also issued Consensus Advice on the subject of IGO protections, noting that IGOs perform important public service missions as treaty-based institutions formed by governments under international law.

Under the ICANN Bylaws, the GAC's role is to *"consider and provide advice on the activities of ICANN as they relate to concerns of governments, particularly matters where there may be an interaction between ICANN's policies and various laws and international agreements or where they may affect public policy issues."* The Bylaws obligate the ICANN Board of Directors to duly take into account GAC advice on public policy matters and requires a voting threshold of no less than 60% of the Board in cases where the Board determines to take an action that is not consistent with GAC Consensus Advice.

Currently, the full names of all IGOs, on a [list](#) prepared by the GAC based on specific [criteria](#), are [permanently reserved](#) at the top and second levels of the domain name system as a matter of ICANN Consensus Policy. This is an outcome of the Generic Names Supporting Organization's (GNSO) Policy Development Process (PDP) on IGO-INGO Protections in All gTLDs that concluded in November 2013. This policy became effective as of August 2018. For IGO acronyms, the Board has [reserved them temporarily](#) on an interim basis for gTLDs launched under the 2012 program, pending resolution of the remaining policy issues. The Board and the GAC have engaged in dialogues and correspondence on this topic, most recently reflected in the GAC's 7 October 2021 [letter](#) that you refer to in your email to us.

The Board has followed the various policy discussions throughout the community, including the GNSO’s PDP on IGO-INGO Access to Curative Rights Protections that you participated in. As you are aware, the GNSO Council [approved](#) four of the five recommendations from that PDP in April 2019. The Board has [resolved](#) to defer Board action on these four recommendations from the GNSO as well as the remaining recommendations from the earlier 2013 PDP that are inconsistent with GAC advice relating to IGO acronyms.

We provide the above background to make it clear that the Board is aware of Article 6ter of the Paris Convention for the Protection of Industrial Property and how its protections are applied in a number of countries. In our 23 February 2021 [letter](#) to the GAC, the Board noted the scope and limitations of Article 6ter as well as our belief that it will not be appropriate to provide greater protection to IGOs than what exists under international law.

As the Board continues our engagement with the GAC and the GNSO, we are also following the work of the ongoing Expedited PDP (EPDP) on Specific Curative Rights Protections for IGOs, which the GNSO Council chartered to consider the issue of IGO jurisdictional immunity while recognizing the right of a domain name registrant to seek court redress. We understand that the GNSO Council [decided](#) to direct additional policy work on this matter instead of approving the fifth and final recommendation from the previous Curative Rights PDP. We also understand that the EPDP team is currently reviewing all Public Comments that were submitted to its preliminary recommendations in its [Initial Report](#).

Decisions about extending a Public Comment proceeding concerning potential PDP recommendations under consideration by a community-led policy development effort are not made by the Board, but by the GNSO through the relevant PDP leadership. This responsibility is in line with the GNSO’s role under the ICANN Bylaws as the entity that is *“responsible for developing and recommending to the Board substantive policies relating to [gTLDs].”*

We also wish to clarify that the ICANN Bylaws do not require a formal or separate Reply Period for Public Comment proceedings. While the Bylaws require that ICANN *“provide a reasonable opportunity for parties to comment on the adoption of the proposed policies, to see the comments of others, and to reply to those comments (such comment period to be aligned with ICANN’s public comment practices), prior to any action by the Board”*, commentators are free to submit their comments at any point during a Public Comment proceeding. Where in the past ICANN’s Public Comment proceedings incorporated a separate Reply Period, this has not been the case since 2014, when the practice was [discontinued](#) as part of ICANN’s continuing efforts to improve the Public Comment process and following community feedback.

We thank you for providing us with your views on these matters.

Best regards,



Maarten Botterman
Chair, ICANN Board of Directors