

The Director

Directorate for Legal Affairs
GENERAL SECRETARIAT

Thomas Schneider
Chair
Governmental Advisory Committee
ICANN

Paris, 3 February 2015

Dear Mr Schneider,

I refer to Cherine Chalaby's letter to you in your capacity as GAC chair dated 22 January 2015.

As you know, at the Los Angeles meeting we agreed to form a 'small group' that would serve as the forum for discussions regarding the protection of IGO identifiers, in particular in an effort to resolve conflicts between GNSO and GAC advice (cf Board resolution of 30 April 2014). Since then the IGOs have tried, so far without success, to advance discussions by circulating discussion documents and offering our expertise.

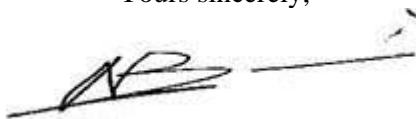
My colleagues and I were therefore very surprised that Mr Chalaby sent the above-mentioned letter—which directly concerns protection of IGO identifiers—without consulting or even acknowledging the existence of the 'small group'. This omission not only creates confusion about the process, but causes concern regarding transparency. In his letter, Mr Chalaby raises the spectre of possible "differing views within the GAC about the nature and extent of the rights of international governmental organizations with respect to curative rights protections for IGO names and acronyms." However, the basis for such a statement is again unclear. In fact, the official record of GAC advice over the past several years is clear, and the GAC has been unequivocal in its demand that IGO identifiers be protected, including through curative rights protections. I attach communiqué excerpts on this issue dating back to 2012 for reference. Furthermore, the letter refers to the possible "creation of new rights for IGOs, which may be tantamount to creating new international law". It is not clear what this really means, but on any interpretation this statement is without basis in law or fact.

From the perspective of the IGO coalition, if the NGPC wishes to resolve this issue it is essential that it enters into an open and direct dialogue with us, through the procedure that was agreed in Los Angeles. Indeed, the only way we will be able to advance discussions is through an engagement of the parties concerned in a transparent process, in accordance with Article 3 §1 of the ICANN bylaws ("ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness").

Following Los Angeles, several IGOs had anticipated attending the Singapore meeting. Regrettably, in light of the lack of measurable progress on this issue since Los Angeles, we are unable to justify spending our limited travel resources on the upcoming meeting. However, the IGOs remain ready and willing to engage in discussions through the small group. In particular, we propose organising conference calls and in-person meetings in the coming months, either in Geneva or another mutually convenient location. In the meantime, it is important that in Singapore no adverse decisions be taken to the detriment of the IGOs' position.

The IGO coalition trusts you as GAC Chair and a member of the 'small group' to ensure that we all work towards a rapid and satisfactory solution.

Yours sincerely,



Nicola Bonucci
Director for Legal Affairs

cc: Mr. Cherine Chalaby, Chair, ICANN Board New gTLD Program Committee