



ICANN Board of Directors
Attn: Dr. Stephen D Crocker, Chair
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles,
CA 90094

cc. Board Ops Team
Göran Marby, ICANN CEO

11 January 2017

Dear Dr Crocker,

Sky International AG operates the .SKY top level domain, a Brand registry which has executed Specification 13 to the ICANN New gTLD Registry Agreement (the "RA"). We write to seek the Board's assistance in permitting the release from reservation at the second level of the name "eu.sky".

As you know, the term "eu" is included within the list of reserved names of Intergovernmental Organisations (IGOs)¹ referred to at Specification 5, Section 6 RA. Such names currently may not be activated in the DNS and, unlike Specification 5, Section 2 RA which deals with other 2-character names, there is no express process envisaged for the release from reservation of these names with the consent of the entity for whose protection they are reserved. Although Sky has obtained such consent, GDD Staff inform us that they are unable to permit the release and use of the term eu.sky. In particular, we have been informed by GDD staff that:

"With respect to protections for the acronyms of IGOs, the Board requested additional time to consider these policy recommendations, and decided to facilitate discussions among the relevant parties to reconcile any remaining differences. The community is actively discussing these issues... Because further direction has not yet been provided by the Board on IGO acronyms, and because the consensus policy recommendations on IGO full names have yet to be implemented, the requested label cannot be released until further direction is provided by the Board regarding IGO acronyms and until the Resolution regarding IGO full names are implemented."

Permitting the use at the second level of an IGO acronym, with the consent of the IGO in question, is neither contrary to the GNSO PDP recommendations nor to the advice of the GAC:

- GNSO – With respect to IGO acronyms, the recommendation of the PDP working group final report was that these names should not be reserved or blocked at the second level, but that acronyms on the GAC list might be entered in the TMCH and subject to a 90 day Claims period.
- GAC – The GAC has advised that at no, or nominal, cost to the IGO there should be protections for IGO acronyms at the second level providing for a permanent system of notifications of proposed registrations to both potential registrants and to the IGO; a timely opportunity to prevent potential misuse and confusion; and an independent third party dispute resolution procedure. Such protections as envisaged by the GAC would not be required in circumstances where the IGO in question had been consulted in advance and expressed no objection to the registration.

¹ <https://www.icann.org/sites/default/files/packages/reserved-names/ReservedNames.xml>

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We understand, therefore, that the list of IGO acronyms generally remains reserved under Specification 5, Section 6 RA, pending further work to reconcile the GAC advice with the GNSO policy recommendations. No such reconciliation is required, however, in the case of a string which matches an IGO acronym where the release and use by a TLD at the second level has the express agreement of the IGO in question. This point is not therefore dependant on the outcome of any community discussions. Indeed, the "Small Group" proposal of 4 October 2016 does not address this point at all.

We are aware that another Registry Operator submitted an RSEP request more than a year ago, seeking amendments to their RAs to the effect that names matching IGO acronyms might be registered and activated where the Registry Operator reaches agreement with the applicable IGO². That RSEP request has been listed for many months as "Approved Pending Contract Amendment", apparently without such contract change having been made however. This would appear to indicate that whilst Staff considers there are no security, stability or competition issues, they are not willing to approve release of these terms, pending direction from the Board.

In our opinion, an RSEP request is not needed in these circumstances in any event. The limited release of certain names from reservation is not a new registry service. Further, Specification 5, Section 6 RA states that "As instructed from time to time by ICANN, Registry Operator will implement the protections mechanism **determined by the ICANN Board of Directors** relating to the protection of identifiers for Intergovernmental Organizations" [emphasis added]. It appears to lie in the power of the Board, therefore, to determine what protection mechanisms are required in particular circumstances, provided that in doing so there is no conflict with either the GNSO policy recommendations or the GAC advice. We would argue that this is such a situation, and consequently we ask the Board to now direct ICANN staff to permit the release, for registration and use, of second level names which match IGO acronyms where the IGO in question has granted express consent to the Registry Operator.

We would appreciate your early consideration of our request. This matter has been outstanding now for some years. The Board resolution at which some PDP recommendations were accepted and others held pending to allow the Board to "facilitate discussions among the relevant parties" was itself made almost three years ago³; and the referred-to community discussions neither appear to address this point, nor do they need to do so since there is no inconsistency in this regard with either the GNSO recommendations or the GAC advice.

We look forward to hearing from you at your earliest opportunity.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Robin King".

Robin King

Sky International AG

² <https://www.icann.org/en/system/files/files/request-2014160-multiple-14dec15-en.pdf>

³ <https://www.icann.org/resources/board-material/resolutions-2014-04-30-en#2.a>

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