

9 November 2015

Dr Steve Crocker  
Chairman of the Board  
Internet Corporation for Assigned Names and Numbers  
12025 Waterfront Drive, Suite 3000  
Los Angeles CA 90004-2536

Dear Dr Crocker

This letter serves to inform the Board of RySG support for a statement made by Donna Austin on behalf of the RySG during the public forum in Dublin in response to advice contained in the GAC's Dublin communique regarding the use of two-letter country codes.

The RySG reiterates the follow points from the statement:

- The Registry Agreement contains two grounds for the release of two letter Second Level Domains:
  - the first is by agreement with the relevant country, or
  - the second is with the permission of ICANN, subject to implementation of measures to address confusion with the relevant country code.There is a process under discussion that relates to that second ground. To be clear, only one of these grounds needs to be met to release two letter second level domains.
- Grounds for objection submitted by governments should indeed be fully considered. This does not mean that they must be accepted as a matter of course.
- Comments submitted by GAC representatives which do not go to the question of confusion with the country code have no place in this process.

This matter has been outstanding now for more than a year, and we urge the ICANN Board to instruct staff to proceed with the process as announced on [6 October 2015](#) and not to bow to unacceptable government pressure. In order to illustrate the number of process changes that have occurred on this single issue, we have attached a chronology of events.

We note that the GAC has provided advice via meeting communiques on three occasions and we believe that the advice contained in the communiques of [Singapore](#) and [Dublin](#) is inconsistent with the original GAC advice from [Los Angeles](#) which clearly stated that "... the GAC was not in a position to offer consensus advice on the use of two characters" and "... recognised that two-character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns". Further, "... the GAC considers that the public comment period is an important transparency mechanism, and in addition asks that relevant governments be alerted by ICANN about these requests as they arise."

In accordance with a Board resolution, ICANN staff developed a process that alerted governments to requests to use two characters and provided government with an opportunity to comment. The advice from Singapore and Dublin claims that the process is not consistent with GAC advice and requested changes to the process. We challenge whether the use of GAC advice to effect process changes is actually in the spirit of the intent of GAC advice. The Board adopted the GAC advice from Singapore and changed the process to include a 60 day rather than 30 day comment period. This

lead to further delays for registry operators to use a sub-set of two character ASCII labels contained on the ISO 3166-1 list.

In providing comments, many governments simply adopted a strategy of making blanket objections to any request to use two characters at the second level. These comments generally do not pertain to confusion, nor do they provide any legal justification by way of protection at the second level of country codes provided in national or international law. The RySG raised concerns about the nature of the comments in a [letter](#) to Akram Atallah on 17 June 2015.

We urge the Board not to agree to the process changes requested in the Dublin communique and to continue with the process developed by staff and published on 6 October 2015.

The RySG also fully supports Donna Austin's response to an intervention by the GAC Chair on this matter during the public forum: we do not believe there are 'rights' attached to a letter-letter combination that happens to be a country code at the second level of any TLD. We would also make the additional point that GAC Advice cannot unilaterally change contracts. ICANN should stay the course and not permit unilateral vetoes by individual governments of the use of two character labels. This is consistent with correspondence we sent to Dr Crocker on [8 September 2014](#).

We respectfully request a reply from the Board on this matter and we would also appreciate an explanation from the Board on how it responds to recurring GAC advice on a single issue, particularly when inconsistencies are evident.

Yours sincerely

Paul Diaz  
Chair  
Registry Stakeholder Group

cc. Thomas Schneider, GAC Chair

## Chronology of Events

Date	Event
March 2014	Registry Operators start submitting RSEPS for the release of two characters that are not country codes
8 August 2014 GAC letter	Requests for release of two-character labels as second level domains in new gTLDs <a href="https://www.icann.org/en/system/files/correspondence/dryden-to-crocker-08aug14-en.pdf">https://www.icann.org/en/system/files/correspondence/dryden-to-crocker-08aug14-en.pdf</a>
2 September 2014 Letter from Board to GAC	Requests for release of two-character labels as second-level domains in New gTLDs <a href="https://www.icann.org/en/system/files/correspondence/crocker-to-dryden-2-02sep14-en.pdf">https://www.icann.org/en/system/files/correspondence/crocker-to-dryden-2-02sep14-en.pdf</a>
10 September 2014 GAC letter	Requests for release of two-character labels as second level domains in New gTLDs <a href="https://www.icann.org/en/system/files/correspondence/dryden-to-crocker-10sep14-en.pdf">https://www.icann.org/en/system/files/correspondence/dryden-to-crocker-10sep14-en.pdf</a>
30 September 2014 RySG letter to Board	Release of 2-character labels as second-level domains in new gTLDs <a href="http://media.wix.com/ugd/ec8e4c_9fe50be3dc824e66aba05145e8319e7e.pdf">http://media.wix.com/ugd/ec8e4c_9fe50be3dc824e66aba05145e8319e7e.pdf</a>
15 October 2014 LA GAC communiqué	<p>The GAC notes that new gTLD registry operators have submitted RSEP (Registry Service Evaluation Process) requests to ICANN in order to use two---character labels at the second level of their TLD.</p> <p>The GAC recognized that two---character second level domain names are in wide use across existing TLDs, and have not been the cause of any security, stability, technical or competition concerns. The GAC is not in a position to offer consensus advice on the use of two---character second level domains names in new gTLD registry operations, including those combinations of letters that are also on the ISO 3166---1 alpha 2 list.</p> <p>In considering these RSEP requests, and consistent with the Applicant Guidebook, the GAC considers that the public comment period is an important transparency mechanism, and in addition asks that relevant governments be alerted by ICANN about these requests as they arise.</p> <p><a href="https://www.icann.org/en/system/files/correspondence/gac-to-board-15oct14-en.pdf">https://www.icann.org/en/system/files/correspondence/gac-to-board-15oct14-en.pdf</a></p>
16 October 2014 Board Resolution	Resolved (2014.10.16.14), the proposed registry service for the release of two-character domains in the gTLD namespace does not create a reasonable risk of a meaningful adverse effect on security and stability, and the Board authorizes the President and CEO, or his designee(s), to develop and implement an efficient procedure for the release of two-character domains currently required to be reserved in the New gTLD Registry Agreement, taking into account the GAC's advice in the Los Angeles Communiqué. <a href="https://www.icann.org/resources/board-material/resolutions-2014-10-16-en#2.b">https://www.icann.org/resources/board-material/resolutions-2014-10-16-en#2.b</a>
November 2014 ICANN Blog	ICANN clears the way for Two-character second level domain names <a href="https://www.icann.org/news/blog/icann-clears-the-way-for-two-character-second-level-domain-names">https://www.icann.org/news/blog/icann-clears-the-way-for-two-character-second-level-domain-names</a>

1 December 2014 ICANN Announcement	ICANN finalizes process for requests for release of two-character ASCII labels <a href="https://www.icann.org/news/announcement-2014-12-01-en">https://www.icann.org/news/announcement-2014-12-01-en</a>
26 January 2105 GAC letter	GAC raised concerns that new process was implemented too quickly and without consultation.  <a href="https://gacweb.icann.org/display/GACADV/GAC+Correspondence?preview=/27492514/38764629/schneider-to-crocker-26jan15-en.pdf">https://gacweb.icann.org/display/GACADV/GAC+Correspondence?preview=/27492514/38764629/schneider-to-crocker-26jan15-en.pdf</a>
5 February 2015 RySG Letter	Release of two-character labels as second level domains in new gTLDs <a href="http://media.wix.com/ugd/ec8e4c_f2bbd44727b4486297be739ef7bcc7fe.pdf">http://media.wix.com/ugd/ec8e4c_f2bbd44727b4486297be739ef7bcc7fe.pdf</a>
11 February 2015 GAC Communique Singapore	Release of Two-Letter Codes and Country Names at the Second Level <ol style="list-style-type: none"> <li>a. The GAC advises the Board to: <ol style="list-style-type: none"> <li>i. amend the current process for requests to release two-letter codes to establish an effective notification mechanism, so that relevant governments can be alerted as requests are initiated. Comments from relevant governments should be fully considered.</li> </ol> </li> <li>b. The GAC further advises the Board to: <ol style="list-style-type: none"> <li>i. extend the comment period to 60 days. These changes should be implemented before proceeding with pending and future requests. A list of GAC Members who intend to agree to all requests and do not require notification will be published on the GAC website.</li> </ol> </li> </ol> <a href="https://www.icann.org/en/system/files/correspondence/gac-to-board-11feb15-en.pdf">https://www.icann.org/en/system/files/correspondence/gac-to-board-11feb15-en.pdf</a>
12 February 2015 Board resolution	Resolved (2015.02.12.16), the Board accepts the advice of the GAC from the 11 February 2015 GAC Communiqué regarding the release of two-letter codes at the second level in gTLDs. The Board directs the President and CEO, or his designee(s), to revise the Authorization Process for Release of Two-Character ASCII Labels and proceed immediately as follows: <ul style="list-style-type: none"> <li>• Implement improvements to the process to alert relevant governments when requests are initiated. Comments from relevant governments will be fully considered.</li> <li>• For new requests, the comment period will be for 60 days.</li> <li>• For requests with pending or completed comment periods, extend or re-open the comment period so that each request will undergo 60 days of comment period in total.</li> </ul> <a href="https://www.icann.org/resources/board-material/resolutions-2015-02-12-en#2">https://www.icann.org/resources/board-material/resolutions-2015-02-12-en#2</a> .
13 March 2015 RySG Letter	Treatment of government comments on requests to release two character ASCII labels <a href="http://media.wix.com/ugd/ec8e4c_d42c0597bb07406f840aaa95cace8971.pdf">http://media.wix.com/ugd/ec8e4c_d42c0597bb07406f840aaa95cace8971.pdf</a>
23 March 2015 Akram Atallah's response to 13 March RySG letter	Treatment of government comments on requests to release two-character ASCII labels <a href="https://www.icann.org/en/system/files/correspondence/atallah-to-rysg-23mar15-en.pdf">https://www.icann.org/en/system/files/correspondence/atallah-to-rysg-23mar15-en.pdf</a>
17 June 2015 RySG Letter	Raises concerns about the process for reviewing government comments. <a href="http://media.wix.com/ugd/ec8e4c_e00b1204bf4a4318b6ac5d831e3227cd.pdf">http://media.wix.com/ugd/ec8e4c_e00b1204bf4a4318b6ac5d831e3227cd.pdf</a>

July 2015 Buenos Aires meeting	ICANN previews process for resolving the release of two-character ASCII labels with comments with registry operators. Many concerns raised by ROs during the meeting, but the process revealed on 11 August 2015, is the same as that previewed.
11 August 2015 ICANN Blog	Resolving the release of two-character ASCII labels with comments <a href="https://www.icann.org/news/blog/resolving-the-release-of-two-character-ascii-labels-with-comments">https://www.icann.org/news/blog/resolving-the-release-of-two-character-ascii-labels-with-comments</a>
28 August 2015	ICANN sent a notification to governments and ccTLD administrators regarding the impending launch of a process to evaluate labels that have received comments.
6 October 2015 Revised process	ICANN announces new process for evaluating comments received from governments <a href="https://www.icann.org/news/blog/resolving-the-release-of-two-character-ascii-labels-with-comments">https://www.icann.org/news/blog/resolving-the-release-of-two-character-ascii-labels-with-comments</a>
21 October 2015 GAC Dublin Communique	<p>Use of 2-letter Country Codes and Country Names at the Second Level The GAC notes that the process for considering comments for two-character letter/letter labels launched on the 6th October 2015 is not consistent with GAC advice which recommended that governments' comments be fully considered. That advice was accepted by Board resolution 2015.02.12.16.</p> <p>GAC Members have now been asked to clarify which specific TLDs their comments pertain to, and to explain how the release of the two-letter label will cause confusion with their corresponding country code. The GAC reiterates its advice on this issue and</p> <ol style="list-style-type: none"> <li>a. advises the Board that: <ol style="list-style-type: none"> <li>i. comments submitted by the relevant Governments be fully considered regardless of the grounds for objection.</li> </ol> </li> <li>b. The GAC further advises the Board to: <ol style="list-style-type: none"> <li>i. be mindful of governments' capacity limitations and asks the Board to facilitate simplification of the process for providing comments to address their concerns.</li> </ol> </li> <li>c. With respect to new requests for release, the GAC advises the Board to: <ol style="list-style-type: none"> <li>i. task ICANN to work with the GAC Secretariat to address the technical issues with comment forms and in the interim</li> <li>ii. offer alternative means for comments.</li> </ol> </li> </ol> <p><a href="https://www.icann.org/en/system/files/correspondence/gac-to-board-21oct15-en.pdf">https://www.icann.org/en/system/files/correspondence/gac-to-board-21oct15-en.pdf</a></p>
22 October 2015 Public Forum Transcript of Donna Austin's statement on behalf of RySG	<p>&gt;&gt;DONNA AUSTIN: THANK YOU, MY NAME IS DONNA AUSTIN. I'M FROM NEUSTAR. I'D LIKE TO MAKE APE STATEMENT ON BEHALF OF THE STAKEHOLDER GROUP. NOTING THAT WE ACTUALLY HAVEN'T HAD TIME TO RUN THIS BY THE GROUP. BUT I HAVE A FAIRLY STRONG IDEA THAT THEY WILL SUPPORT THIS STATEMENT.</p> <p>REGISTRY STAKEHOLDER GROUP NOTES YOUR ADVICE IN THE GAC COMMUNIQUE FROM DUBLIN REGARDING THE PROCESS FOR RELEASE OF SECOND LEVEL DOMAINS WITH THE NEW gTLDs CONSISTING 62-LETTER COUNTRY CODES. THE REGISTRY AGREEMENT CONTAINS TWO GROUNDS FOR THE RELEASE OF SUCH LETTER LETTER COMBINATIONS AT THE SECOND LEVEL. THE FIRST IS BY AGREEMENT WITH THE RELEVANT COUNTRY AND THE SECOND WITH PERMISSION OF ICANN</p>

SUBJECT TO IMPLEMENTATION OF MEASURES TO ADDRESS CONFUSION WITH THE RELEVANT COUNTRY CODE.

THIS IS A PROCESS UNDER DISCUSSION AND RELATES TO THE SECOND GROUND.

GROUNDS FOR OBJECTION SUBMITTED BY GOVERNMENT SHOULD INDEED BE FULLY CONSIDERED. THIS DOES NOT MEAN THAT THEY MUST BE ACCEPTED AS A MATTER OF COURSE.

COMMENTS SUBMITTED BY GAC REPRESENTS WHICH DO NOT GO TO THE CONFUSION OF COUNTRY CODES HAVE NO PLACE IN THE PROCESS. THIS MATTER HAS BEEN OUTSTANDING NOW FOR MORE THAN A YEAR. ACTUALLY, I THINK WE'RE GETTING CLOSER INTO THE 2-YEAR TIME FRAME ON THIS. AND WE URGE THE ICANN BOARD TO INSTRUCT STAFF TO PROCEED WITH THE PROCESS AND NOT TO BOW TO UNACCEPTABLE GOVERNMENT PRESSURE. I JUST WANT TO GIVE SOME BACKGROUND THO THIS ISSUE JUST TO GIVE YOU SOME CONTEXT.

THIS SITUATION BEGAN AROUND MARCH 2014 WHEN REGISTRY OPERATORS STARTED SUBMITTING R ACCEPTS TO THE RELEASE OF 2-CHARACTER NAMEDZ AT THE SECOND LEVEL. THESE REQUESTS COULD NOT BE FINALIZES AS WE UNDERSTOOD THE GAC ADVICE WAS PENDING ON THE ISSUE. IN OCTOBER 2014, THE GAC PROVIDED ADVICE IN AN L.A. COMMUNIQUE ALLOWING FOR THE RELEASE OF TWO-LETTER CODES SUBJECT TO AN OPPORTUNITY FOR INDIVIDUAL GOVERNMENTS TO OBJECT.

IN DECEMBER 2014, ICANN STARTED ITS NEW PROCESS TO ENABLE REGISTRY OPERATORS TO SEEK AUTHORIZATION TO USE THE TWO-LETTER COMBINATIONS. SO JUST TO FINISH UP, I THINK THE GAC HAS PROVIDED ADVICE ON THIS ISSUE ABOUT FOUR TIMES. THE PROCESS FOR THIS HAS BEEN CHANGED I THINK IF WE CHANGE IT NOW, IT'S FIVE TIMES. THE STAKEHOLDER GROUP HAS PROVIDED COMMENTS TO -- IT HAS WRITTEN TO THE BOARD AND ALSO ICANN STAFF ON THIS ISSUE AT LEAST FOUR TIMES AND BOARDED UP IN SESSIONS WITH THE REGISTRY STAKEHOLDER GROUP AND GDD FOR I THINK ABOUT THE LAST 8 OR 9 ICANN MEETINGS. WE -- THE REAL PROBLEM WE HAVE WITH THIS IS WHEN DOES GAC ADVICE STOP? SO WHEN IS THE END OF THE CYCLE? THERE'S BEEN FOUR BITES AT WHICH CHERRY THAT I CAN REMEMBER. AND WE THINK THAT'S UNACCEPTABLE. THERE'S A PROCESS IN PLACE NOW. WE'D LIKE IT MOVE FORWARD. WE DON'T WANT ANY MORE DELAYS WITH THIS, THANK YOU.

[ APPLAUSE ]

>>MARKUS KUMMER: THANK YOU. CRAS WOULD LIKE TO ANSWER, PLEASE.

>>CHRIS DISSPAIN: THANKS, DONNA. SO THE GAC ADVICE HAS KIND OF ARRIVED ONLY OVERNIGHT. SO I'M NOT GOING TO REALLY SAY ANYTHING OTHER THAN PLEASE MAKE SURE -- I'M SURE YOU WILL, THAT YOU'LL GET THAT SIGNED OFF AND SENT TO US AS SOON AS POSSIBLE. I THINK THE BOARD IS FULLY AWARE OF THE TIME THIS IS TAKING AND WE NEED TO TRY AND FIND A WAY THROUGH IT. SO SEND US THAT AND WE'LL MOVE FORWARD FROM THERE. BUT I DID WANT TO -- I JUST DID WANT TO ACKNOWLEDGE THAT WE DID -- WE DO UNDERSTAND THAT THIS HAS BEEN GOING BACKWARDS AND FORWARDS QUITE A FEW TIMES.

>>MARKUS KUMMER: THANK YOU, THE GAC CHAIR WOULD LIKE TO SPEAK, PLEASE, THOMAS.

>> THOMAS SCHNEIDER: THANK YOU FOR THIS QUESTION. AS YOU SAID, THERE HAS BEEN A GAC ADVICE LAST YEAR THAT THESE COUNTRY CODES, 2-LETTER COUNTRY CODES COULD BE RELEASED IF THE GAC -- IF THE RESPECTIVE COUNTRIES WOULD GIVE THEIR CONSENT TO.

THE ADVICE HAD BEEN ACCEPTED AND WE -- THE GAC MEMBERS HAVE BEEN RELYING ON A PROCEDURE THAT WOULD FOLLOW THAT ADVICE. AND WE HAD TO -- THE GAC HAD TO INTERVENE SEVERAL TIMES BECAUSE IT FELT THAT THE PROCEDURE OF IMPLEMENTING WITH THIS DID NOT RESPECT THE ADVICE THAT IN PARTICULAR FOR COUNTRIES THAT DO NOT HAVE THE RESOURCES TO RUN, WE HAD HUNDREDS AND HUNDREDS OF REGISTRIES. AND WATCH OUT FOR WHEN THEY WERE PLANNING TO RELEASE THIS AND INTERVENE, THAT WE WERE ASKING FOR PROCEDURES THAT WOULD ACTUALLY ALLOW DE FACTO ALLOW, NOT JUST ON PAPER, BUT DE FACTO ALLOW GOVERNMENTS WHO WOULD LIKE TO KEEP THESE TWO-LETTER COUNTRY CODES FOR THEM NOT RELEASING THEM ON SECOND LEVEL DOMAINS TO ACTUALLY HAVE THE POSSIBILITY TO EXERCISE WHAT THEY THOUGHT THEY'D BE GIVEN AS A RIGHT. AND AS LONG AS THESE PROCEDURES ARE ESTIMATED BY US THAT THEY DO NOT WORK, WE'LL HAVE TO CONTINUE WITH ADVICE INSISTING THAT THIS IS DONE IN A WAY THAT GOVERNMENTS CAN ACTUALLY DO WHAT THEY THOUGHT THEY SHOULD HAVE THE RIGHT. THANK YOU.

>>DONNA AUSTIN: CAN I RESPOND TO THAT JUST VERY QUICKLY? THANK YOU, THOMAS, SHOULD I TURN TO MY RIGHT? THOMAS, I ACCEPT THAT THE GOVERNMENTS THINK THAT THEY HAVE RIGHTS AT THE SECOND LEVEL FOR A COMBINATION OF TWO LETTERS THAT MAKE UP A COUNTRY CODE. THE REGISTRY OPERATORS DO NOT SHARE THAT VIEW. WE UNDERSTAND THE RIGHTS THAT THERE'S NATIONAL SOVEREIGNTY ASSOCIATED WITH THE ccTLD AT THE TOP LEVEL. WE ACKNOWLEDGE THAT. WE RECOGNIZE THAT. BUT A LETTER-LETTER COMBINATION AT THE SECOND LEVEL IS A DIFFERENT -- IT'S A DIFFERENT SITUATION. SO WE DON'T BELIEVE THAT THE SAME RIGHTS EXIST. THANKS.

[ APPLAUSE ]