



The Internet Corporation for Assigned Names and Numbers

ICANN

3 October 2014

Johan Vande Lanotte
Deputy Prime Minister
Minister of Economy Consumer Affairs and North Sea
Avenue des Arts, 7
1210 Bruxelles
Belgium

Re: Procedure for the attribution of the new ".spa" gTLD (applications no 1-1309-12524 and no 1-1619-92115) - NGPC Resolution 2014.05.14 NG02

Dear Mr. Deputy Prime Minister:

I am writing to you regarding your letter of 1 July 2014 concerning the new gTLD applications for .SPA. Thank you for taking the time to share your views with us regarding the .SPA application. I asked my team to carefully review your letter and prepare a comprehensive response, which was sent to you earlier today. I've enclosed a copy here.

I understand the importance of this matter to the Government of Belgium and I hope our response clarifies the handling of the .SPA application under the process created by ICANN's multistakeholder community.

Sincerely,

Fadi Chehadé
President & CEO

II
Enclosure
By FedEx
cc: Mr. S. Crocker



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Dear Mr. Deputy Prime Minister:

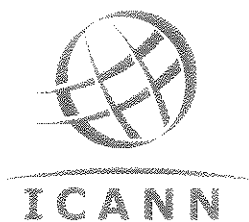
Thank you for your letter of 1 July 2014, regarding the new gTLD applications for .SPA. We have posted your letter to the New gTLD correspondence page (<https://www.icann.org/en/system/files/correspondence/lanotte-to-chehade-crocker-01jul14-en.pdf>).

We would like to provide the clarification that you requested around New gTLD Program processes, and we took some time to prepare a detailed response. To answer to your questions, we summarize below the interactions between ICANN's Governmental Advisory Committee (GAC) and the ICANN Board on .SPA and provide an overview of the Geographic Names Review process.

I. Governmental Advisory Committee on .SPA

The GAC issued its advice to the ICANN Board on the .SPA applications on five occasions, from its Beijing Communiqué of 11 April 2013 to, most recently, its London Communiqué of 25 June 2014.

In the Beijing Communiqué, the GAC identified certain gTLD strings where further GAC consideration may be warranted. To that end, the GAC advised the Board not to proceed



beyond Initial Evaluation of the .SPA applications. The New gTLD Program Committee (NGPC) of the ICANN Board accepted this advice¹.

In the Durban Communiqué (18 July 2011), the GAC advised the Board not to proceed beyond Initial Evaluation of the .SPA applications until the agreements between the relevant parties were reached. The GAC reiterated this advice in the Buenos Aires Communiqué. In each instance, the NGPC accepted the GAC advice and directed that ICANN would not enter into registry agreement with the applicants at that time².

After receiving the advice in the Buenos Aires Communiqué (21 November 2013), the NGPC noted concerns about concluding discussions with the .SPA applicants, and sent a letter to the GAC (via the GAC Chair) asking for clarification of two aspects of the GAC advice. First, the NGPC asked the GAC to identify the “relevant parties” referenced in the GAC advice. Second, the NGPC sought an understanding of the anticipated timeline for the GAC to issue final advice on the .SPA application. The NGPC noted that the applications for .SPA were posted more than 18 months ago and received no GAC Early Warnings or Objections, and there was no provision in the Applicant Guidebook for indefinite hold of the applications.

In its Singapore Communiqué (27 March 2014), the GAC reported that “the GAC has finalised its consideration of the .spa string and welcomes the report that an agreement has been reached between the city of Spa and one of the applicants.”

On 14 May 2014, the NGPC adopted a new iteration of its Scorecard to respond to open items of the GAC advice. In that Scorecard, the NGPC acknowledged that the GAC had finalized its consideration of the .SPA string and the GAC’s report that an agreement has been reached between the City of Spa and one of the applicants. The NGPC noted that there was no GAC advice pursuant to Module 3.1 of the Applicant Guidebook, and as a result, the .SPA applications would proceed through the normal process.

¹ ANNEX 1 to NGPC Resolution No. 2013.06.04.NG01; NGPC Scorecard of 1As Regarding Non-Safeguard Advice in the GAC Beijing Communiqué (4 June 2013); <https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-04jun13-en.pdf>

² Annex 1 to NGPC Resolution No. 2013.09.10.NG03; ICANN Board New gTLD Program Committee Scorecard in response to GAC Durban Communiqué (10 September 2013); <https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-10sep13-en.pdf>
Annex 1 to ICANN NGPC Resolution No. 2014.02.05.NG01; GAC Advice (Beijing, Durban, Buenos Aires): Actions and Updates (5 February 2014); <https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-05feb14-en.pdf>



In the London Communiqué (25 June 2014), the GAC reiterated the Singapore Communiqué and asked “NGPC’s clarification on whether its explanation that ‘the applications will proceed through the normal process’ means it will follow the Applicant Guidebook taking into consideration the GAC advice.”

On 8 September 2014, the NGPC responded to the GAC through the new Scorecard³:

Yes. ICANN will follow the Applicant Guidebook taking into consideration the GAC advice. Because neither of the .SPA applications were the subject of GAC advice pursuant to Module 3.1 of the Applicant Guidebook, both applications for .SPA remain active and will continue to be processed pursuant to the procedures of the [Applicant Guidebook (AGB)]. Because there is more than one application for the .SPA TLD, the applicants will need to resolve the contention set pursuant to the procedures established in Module 4 of the Applicant Guidebook before ICANN will enter into a Registry Agreement with the prevailing applicant.

Consistent with the GAC advice, the New gTLD Applicant Guidebook and the NGPC resolutions cited above, ICANN has continued with the processing of the .SPA applications.

II. Geographic Names Review

The definition of “geographic names” in the context of the New gTLD Program was elaborated over several years of community input as part of the development of the Applicant Guidebook. All applications have been evaluated by the Geographic Names Panel during Initial Evaluation. Based on the criteria defined in Section 2.2.1.4 of the Applicant Guidebook, the following types of strings are considered geographic names:

1. *An application for any string that is a representation, in any language, of the capital city name of any country or territory listed in the ISO 3166-1 standard.*
2. *An application for a city name, where the applicant declares [emphasis added] that it intends to use the gTLD for purposes associated with the city name. [...]*

³ Annex 1 to ICANN Board New gTLD Program Committee Resolution 2014.09.08.NG02; GAC Advice (London, Singapore, Buenos Aires, Durban, Beijing): Actions and Updates (as of 8 September 2014)
<https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-08sep14-en.pdf>



3. An application for any string that is an exact match of a sub-national place name, such as a county, province, or state, listed in the ISO 3166-2 standard.

4. An application for a string listed as a UNESCO region or appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list.

Using these guidelines, the Geographic Names Panel determined that the applications for .SPA did not meet the criteria for a geographic name. That is, the string did not meet criteria 1, 3, or 4, and none of the .SPA applicants had declared in their original applications the intent "[. . .] to use the gTLD for purposes associated with the city name" (Section 2.2.1.4.2).

For that reason, the .SPA applications do not require documentation of support or non-objection from the relevant governments or public authorities, and are not subject to the Geographic Names Extended Evaluation. The evaluation of the applications has been administered in accordance with the procedures that were developed through the multi-stakeholder process and agreed to by the wider community, including the GAC.

Please note that the Applicant Guidebook provides guidance to city governments to protect their interests:

City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string (Section 2.2.1.4, note 7).

The window for filing a formal objection to a new gTLD closed on 13 March 2013. The city of .SPA did not file a formal objection.

We note your assertion that, "the GAC's advice is clearly considered as an objection by the Applicant Guidebook (AGB 3-2)." However, the Objections process described in the Section 3.2 of the Applicant Guidebook is a separate and independent process from the GAC Advice process.

The GAC provides advice on a wide range of matters, and such advice is not in and of itself an "objection." As defined in Section 3.1 of the Applicant Guidebook, "GAC members can raise concerns about any application to the GAC. The GAC as a whole will consider concerns raised by GAC members, and agree on GAC advice to forward to the ICANN Board of Directors." Had



the GAC wished to object to the delegation of .SPA to certain applicants, it would have clearly stated so in the GAC Advice.

You have requested "the Board of Directors of ICANN to delegate the new gTLD '.spa' to the candidate who has a formal agreement with the local authorities of the city of Spa." Please note that the GAC has not provided such advice to the ICANN Board. Likewise, the Applicant Guidebook does not provide for a mechanism for individual governments to select a preferred outcome for an application for a string, particularly when that string is not considered to be a geographic name as defined by the Applicant Guidebook criteria and the Geographic Names Panel's determination.

In your letter you state that "the only appropriate process forward would be to follow the AGB: 2.3.1 and trigger a Geographic Names Extended Evaluation." As noted above, during Initial Evaluation, the Geographic Names Panel determined that the applications for .SPA do not meet the criteria for a geographic name and do not require documentation of support or non-objection from the relevant governments or public authorities.

III. Next Steps

You have asked "[what] does that mean ICANN will proceed according to the AGB and what are the concrete next steps?"

The ICANN Board New gTLD Program Committee (NGPC) resolutions of 14 May 2014 and 8 September 2014 state that the .SPA applications "will proceed through the normal process." The next step for these applications is contention resolution. The contention set for this string currently contains two active applications, one of which (Asia Spa and Wellness Promotion Council Limited, Application ID 1-1309-81322) is a self-designated community-based application as defined in Section 1.2.3 of the Applicant Guidebook.

The community-based application in this contention set will be offered the opportunity to undergo Community Priority Evaluation (CPE), as defined in Section 4.2 of the Applicant Guidebook, where it could earn priority over the other application in the set and thus prevail the contention set. This evaluation generally takes three to four months to complete from its commencement.

**ICANN**

Governments are welcome to submit letters of support for community applicants. The CPE Panel reviews and verifies each letter.⁴ In addition, the panel will assess the relevance of the supporting organization to the applicant's proposed community and award points for community endorsement based on criterion #4 of the Community Priority Evaluation Criteria as detailed in Section 4.2.3 of the Applicant Guidebook.

Should the community-based application either elect to not utilize CPE or not achieve the minimum required score in CPE to earn priority, the contention set will be scheduled for an Auction. This mechanism is the last resort to resolve a contention set as defined in Section 4.3 of the Applicant Guidebook. Applicants within a contention set are encouraged to resolve the contention among themselves without the use of ICANN's resolution mechanisms, and may resolve contention at any time up until seven days prior to the scheduled Auction date. Once the contention set is resolved, the prevailing applicant will begin the process of entering into a Registry Agreement with ICANN to operate the .SPA gTLD.

We hope that the information presented here is helpful. Thank you for your continued participation in ICANN's multi-stakeholder process.

Sincerely,

Christine A. Willett

Vice President, GDD Operations

⁴ Please refer to the verification process in The Economist Intelligence Unit's Community Priority Evaluation Panel process document (<http://newgtlds.icann.org/en/applicants/coe/panel-process-07aug14-en.pdf>).