

Two-Character ASCII Labels Memo on Implementation

Memo on the Implementation of the Procedure for Release of
Two-Character Labels and Standard Measures to Avoid
Confusion with Corresponding Country Codes

Global Domains Division
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TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
BACKGROUND: THE REGISTRY AGREEMENT	4
DEVELOPMENT OF PROCEDURES: RSEP REQUESTS AND PHASE 1	4
DEVELOPMENT OF PROCEDURES: PHASE 2	5
DEVELOPMENT OF PROCEDURES: PHASE 3	6
POST-IMPLEMENTATION AND ENGAGING WITH CONCERNED GOVERNMENTS	8
CLOSING	8
ANNEX 1: ICANN ORGANIZATION RESPONSES TO GAC BRIEFING MEMO “CONCERNS REGARDING THE RELEASE OF 2-CHARACTER COUNTRY CODES AT THE SECOND LEVEL UNDER GTLDS”	10

Executive Summary

This memo provides clarification regarding the development and evolution of ICANN organization's (ICANN org) procedure for the release of two-character labels at the second level (e.g., us.example) and the standard framework of measures for avoiding confusion with corresponding country codes (e.g., example.us). The ICANN org wishes to provide to the GAC a clear and succinct explanation of events that occurred leading up to the November 2016 ICANN Board resolution, placing emphasis on the ways in which the ICANN org engaged with the GAC and the rest of the ICANN community to ensure that the process was developed in a transparent way and with clear references to public record.

Accordingly, this memo¹ provides the GAC information on the Registry Agreement language behind two-characters, the initial phase of development of a procedure for release of two-character labels, the improvements made to the procedure based on input from the GAC and registries, the adoption of the standard measures by the ICANN Board in November 2016, and subsequently, the ICANN org's efforts to explain the procedure and rationale behind it to the GAC and mitigate any additional concerns.

The ICANN org would also like to emphasize that this memo is its own method to communicate to the GAC the operational and community steps that were taken regarding the release of two-character labels. The ICANN Board, as part of its responsibility to the GAC, plans to formally respond to the GAC Advice contained in the Barcelona Communiqué regarding this topic via the established GAC Advice process and currently expects to adopt a scorecard during its meeting scheduled in January 2019.²

¹ This memo is complemented by both a more detailed historical overview ("the Historical Overview"), as well as a response to the memo released at ICANN63 by GAC Vice-Chair Thiago Jardim, entitled "Concerns regarding the release of 2-Character Country Codes at the Second Level under gTLDs." The latter provides additional clarifications to points raised in the memo.

² This was also discussed on the Board-GAC Clarification call of 28 November 2018. Listen to the recording here: <https://gac.icann.org/sessions/barcelona-communicu-clarification-call-with-icann-board>.

Background: The Registry Agreement³

The community and the ICANN org considered and addressed numerous implementation issues with respect to the introduction of new gTLDs, and the ICANN org ultimately drafted and published the New gTLD Applicant Guidebook to provide guidance regarding gTLD applicant requirements and evaluation processes.⁴ Module 5 of the Guidebook contained a draft registry agreement for new gTLD registry operators.⁵ Specification 5 Section 2 of the Guidebook's draft registry agreement required the initial reservation of two-character labels at the second level based on language from legacy gTLD agreements, provided two paths to release the labels:

1. **Government and ccTLD approval (“Path 1”):** “The reservation of a two-character label string may be released to the extent that Registry Operator reaches agreement with the government and country-code manager.” Or,
2. **ICANN approval (“Path 2”):** “The Registry Operator may also propose release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN”

Path 2 above placed within ICANN's remit the ability to establish a method by which registry operators could release two-character labels. This path served as the basis for the implementation of the current procedures and measures, as described in this memo.

Development of Procedures: RSEP Requests and Phase 1⁶

Beginning in 2014, new gTLD registry operators submitted Registry Service Evaluation Process (RSEP) requests for ICANN approval to release two-character ASCII labels from reservation.⁷ At this time, there was no standard set of measures by which registry operators could demonstrate to ICANN they would avoid confusion for users between ccTLDs and corresponding country codes at the second level. For that reason, and within its remit according to Path 2 above, the ICANN org sought to establish an efficient process by which registry operators could deploy a standard set of measures to avoid confusion with corresponding country codes.

In October 2014, the GAC issued its Los Angeles Communiqué, in which it discussed the use of two-character domains at the second-level but noted that it could not offer consensus advice on the topic. The GAC also noted that “in considering these RSEP requests...the GAC considers that the public comment period is an important transparency mechanism, and...asks that relevant governments be alerted by ICANN about these requests as they arise.”⁸

³ See Historical Overview, pgs. 1-3.

⁴ See: <https://archive.icann.org/en/topics/new-gtlds/comments-7-en.htm>.

⁵ See: <https://archive.icann.org/en/topics/new-gtlds/agreement-specs-clean-30may11-en.pdf>.

⁶ See Historical Overview, pgs. 3-5.

⁷ It should be noted that a 2006 RSTEP report found that “the proposed release of two-character Second Level Domains [will have] a material security or stability impact on the internet”

(<https://www.icann.org/en/system/files/files/rstep-gnr-proposal-review-team-report-04dec06-en.pdf>).

⁸ See: <https://www.icann.org/en/system/files/correspondence/gac-to-board-15oct14-en.pdf>. Also note that ICANN had already conducted five public comment periods with regard to the RSEP requests: [12 June 2014](#); [8 July 2014](#); [23 July 2014](#); [19 August 2014](#) and [12 September 2014](#).

In order to address the RSEP requests, the Board directed the ICANN org in October 2014 to create and implement an efficient procedure for the release of two-character labels.⁹ The subsequent steps taken by the ICANN org to create and implement an efficient procedure were in response to the Board's October 2014 direction.

Accordingly, in December 2014, the ICANN org announced the Process for Requests for Release of Two-Character ASCII Labels, which kicked off the first phase of a multi-phased process for development of a standard set of measures that could be used by all registry operators.¹⁰ The ICANN org took into account two main principles when establishing this process: compliance with the Registry Agreement, and ICANN's mission to maintain security and stability of the DNS. The initial procedure allowed for the release of non-letter/letter two-character labels and those letter/letter labels that had not previously been subject to the Public Comment Forum process, via RSEP submissions, and did not receive any comments from governments. For all other requests (whether received prior to the start of this process or after), the first phase of the new process was, as follows:

- Registry operator submitted a request to release some or all two-character letter/letter labels.
- ICANN org reviewed and posted the registry operator's request for comment for 30 days.
- ICANN notified the GAC and its members of the request and the comment period.
- ICANN authorized the release for two-character labels that received no comments from governments related to confusion with said governments' corresponding labels.

Following the introduction of this process, the ICANN org received feedback from both the GAC, via the Singapore Communiqué, and registry operators that the process was inefficient and burdensome. Based on this feedback provided by the GAC and registry operators, ICANN org understood both community groups wanted the ICANN org to improve the process of releasing two-letter labels that the org was still developing.

The GAC was informed of this multi-phased approach in August 2015, when Akram Atallah sent a [letter](#) to Thomas Schneider in response to his [letter](#) regarding the process for the release of two-letter codes as second-level domains for new gTLDs. The response detailed a phased approach to implementation of the process for release: Phase 1 was the initial stage of the process, as described above. Phases 2 and 3, described below, were part of the ICANN org's effort to improve the process based on feedback from GAC members and registries and develop the framework of standard measures adopted by the Board in November 2016.

Development of Procedures: Phase 2¹¹

The GAC issued advice in its Singapore Communiqué advising the Board “...to amend the process to establish an effective notification mechanism and extend the comment period to 60 days.”¹² In response to the Singapore Communiqué, the Board directed the ICANN org to make process and system improvements, fully consider the comments from governments, and to extend or re-open comment periods so that each request would undergo 60 days of comment period in total.¹³ The ICANN org improved the notification mechanism by instituting a mailing list

⁹ See: <https://features.icann.org/introduction-two-character-domain-names-new-qtld-namespace>.

¹⁰ See: <https://www.icann.org/news/announcement-2014-12-01-en>.

¹¹ See Historical Overview, pgs. 5-6.

¹² See: <https://www.icann.org/en/system/files/correspondence/gac-to-board-11feb15-en.pdf>.

¹³ See: <https://www.icann.org/resources/board-material/resolutions-2015-02-12-en#2.a>.

for governments solely for new two-character requests and providing tutorials to governments on subscribing to automatic notifications for new two-character requests.

Accordingly, in October 2015, with the goal of fully considering comments received by governments as part of this stage of the process, ICANN org launched a new comment consideration process to evaluate comments received on the release of certain labels.¹⁴ This was done to provide an opportunity for governments to clarify their comments regarding potential user confusion. This process included four basic steps:

- ICANN reached out to all relevant governments to further clarify their comments
- ICANN reached out to registries to respond with mitigation plan *to avoid confusion with corresponding country codes*
- ICANN aggregated governments' comments and registries' mitigation plans to draft the criteria for approval
- ICANN took into consideration the feedback provided by the ICANN community and created finalized criteria for approval

The ICANN org noted in its announcement of this process that *“this process will address all previous requests and comments, and we expect it to result in the development of criteria by which ICANN can evaluate future requests and comments.”* The ICANN org also stated that *“[t]he current framework of the Authorization Process, whereby a registry submits an authorization request and relevant governments may submit comments, is not expected to change. However, we believe the finalized criteria for approval will help everyone with a more clearly defined standard with which ICANN can evaluate future requests.”*¹⁵ The ICANN org acknowledges that it had previously stated that the process for governments to submit comments was not expected to change. However, based on the feedback provided by the registries and the subsequent GAC Advice issued in the Dublin Communiqué¹⁶, in which the GAC advised that comments be fully considered, while being mindful of capacity concerns and simplifying the process, the ICANN org continued working to establish a standard process that would allow for evaluation of all future requests.

Based on the two instances of GAC advice regarding the comment process, the ICANN org took the opportunity to further improve the process which would alleviate the burden on governments as well as registry operators. Thus, the ICANN org initiated Phase 3 of the development process, as described below.

Development of Procedures: Phase 3¹⁷

In July 2016, ICANN published for community feedback a draft framework of standard measures that could be implemented across any gTLD registry to avoid user confusion with two-character labels. The proposed measures meant registries that had implemented the measures no longer needed to submit requests to release two-character labels as the risk of user confusion had been addressed via the comment process described above. The proposed measures additionally urged, based on the Advice in the Helsinki Communiqué, that *“the relevant Registry or the Registrar to engage with the relevant GAC members when a risk is identified in order to*

¹⁴ See: <https://www.icann.org/resources/pages/two-character-comments-consideration-2015-10-06-en>.

¹⁵ See: <https://www.icann.org/news/blog/resolving-the-release-of-two-character-ascii-labels-with-comments>.

¹⁶ See: <https://www.icann.org/en/system/files/correspondence/gac-to-board-21oct15-en.pdf>.

¹⁷ See Historical Overview, pgs. 6-8.

*come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered.*¹⁸

The public comment was clear in asking for community input on the proposed measures, including that of the GAC members, *as they relate to confusion with relevant country codes*. This confusion aspect was *the only* element of the contract under which ICANN could not authorize the release of two-character labels. Additionally, it was clearly stated in the purpose section of the public comment for the proposed measures that “[i]f adopted, all currently reserved two-letter second-level domains would be released for New gTLD registries that implement the measures.”

In November 2016, the mitigation measures were approved by Board resolution at the Hyderabad meeting.¹⁹ The mitigation measures comprised the following:

1. **Exclusive Availability Pre-Registration Period (voluntary):** Registry Operators may implement an exclusive availability pre-registration for governments or ccTLD operators to register domain names corresponding to their country codes, before the names are generally available;
2. **Registration Policy:** Registry Operators must include a provision in the registry’s registration policy requiring registrants to avoid misrepresenting affiliation with a government or ccTLD; and
3. **Post-Registration Complaint Investigation:** Registry Operators must investigate and respond to reports of confusion from government or ccTLD operators.

In December 2016, based on the November 2016 Board resolution, the ICANN org authorized new gTLD registry operators to release reserved two-character labels, subject to the registry operator incorporating the required measures into their Registry Agreements to avoid confusion and subject to all other terms of the Registry Agreement.²⁰ The approved mitigation measures meant registries no longer needed to submit requests to release two-character labels, nor did the Community (e.g., registrants, governments, etc.) need to review or comment on two-character label registrations. Instead, registries that intended to release two-character labels were required, under their Registry Agreements, to comply with the mitigation measures to avoid confusion. Should the ICANN org become aware that a registry operator was not complying with the required measures, the issue would be referred to ICANN Contractual Compliance for investigation and follow up.

Throughout this process the organization took several proactive steps to inform the GAC of all new developments and to answer questions through webinars, presentations at ICANN meetings, as well as written communication to the GAC via the GAC Support team, as summarized in Annex 1 of the Historical Overview.²¹

¹⁸ See: <https://www.icann.org/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf>.

¹⁹ See: <https://www.icann.org/resources/board-material/resolutions-2016-11-08-en#2.a>.

²⁰ See: <https://www.icann.org/en/system/files/files/two-character-ltr-ltr-authorization-release-13dec16-en.pdf>.

²¹ For one example, see transcript of the “GAC Meeting on Two Character Codes Implementation” at ICANN55: <https://meetings.icann.org/en/marrakech55/schedule/wed-gac-two-character-codes>.

Post-Implementation and Engaging with Concerned Governments²²

Immediately following the resolution taken by the Board in November 2016, some members of the GAC expressed concerns with the resolution. Indeed, the GAC advised the Board in its Copenhagen Communiqué to engage with concerned governments. Based on this, the Board directed the CEO to engage with concerned governments to listen to their views and concerns and further explain the Board's decision-making process. Since then, the ICANN org has made a concerted effort to explain the evolution of the release process leading to the ultimate adoption of standard measures in November 2016.

For example, the ICANN org conducted telephonic conversations with concerned governments in May 2017 explaining the rationale and development of the framework adopted by the 8 November 2016 Board resolution. Additionally, the ICANN org engaged in discussions with the GAC at the Board-GAC Recommendation Implementation (BGRI) meetings at ICANN61, ICANN62 and ICANN63. The ICANN org also urged registry operators to engage with the relevant GAC members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name in question was already registered.

Additionally, following ICANN58, the ICANN org provided additional dedicated services to GAC members, including the monitoring of their corresponding two-letter country code domain registrations at the second level in new gTLDs and explanations of possible recourse mechanisms in the event of a reported misuse. GAC members were able to request a manually created report of two-character domain name registrations corresponding to their country code. To date, 24 reports from 20 countries have been requested, and there have been no reports of non-compliance of domain names.

Finally, following discussions with the GAC at ICANN60 in Abu Dhabi, the ICANN org committed to the development of a dedicated webpage for the GAC members to easily track the registration of two-character domain names that correspond with a specific country code and which enables GAC members to submit a request for ICANN compliance action in the event of a perceived misuse. This online tool will have a members-only page on the GAC website that will filter two-letter domain name registrations that correspond with their country codes. This service will aggregate two-character second level domains automatically to a table on the GAC site, which can also be downloaded for offline analysis by GAC members. The service will run daily after all root zone files are updated, aggregating all new two-character second-level domain registrations and displaying to GAC Members.

Closing

While the above process has been implemented, and all two-character labels have now been authorized for release, which cannot be reversed, the ICANN org acknowledges that this has caused concern to some GAC members, and that to date these concerns have not been alleviated. It is for that reason that the ICANN org has provided this response: in good faith and with the goal of moving this issue to its conclusion. The ICANN org hopes this response has

²² See also Historical Overview, pgs. 8-18.

provided additional insight into the development and implementation process and is useful to the GAC as it considers the issue.

Annex 1: ICANN Organization Responses to GAC Briefing Memo “Concerns regarding the release of 2-Character Country Codes at the Second Level under gTLDs”

Background

On 20 October 2018, the GAC distributed a memo entitled “Agenda Item 6: Concerns regarding the release of 2-Character Country Codes at the Second Level under gTLDs” to serve as a basis for discussion between the GAC and the ICANN Board at ICANN63.²³ This Annex builds on the information provided in the ICANN org memo to the GAC above as well as the historical background provided in the Historical Overview. As with the ICANN org memo above, this Annex is not intended to be a response for or on behalf of the ICANN Board, which will respond via the established GAC Advice process.

1. Consistent with the rationale of the Panama GAC Advice, as reiterated uninterrupted since ICANN 57 in Hyderabad, countries’ concerns regarding the release of their country-codes at the second level include:

- a. *Losing the ability to play a role in a procedure for the release of their 2-character country codes (hereafter “the Authorization Process”) caused by the 8 November 2016 Board resolution;*²⁴

Org Response: The development of the mitigation measures took over two years with various phases of development that incorporated several instances of GAC Advice and involved several public comment periods in which GAC members participated.²⁵ The ICANN org also communicated the changes to the process with the GAC on multiple occasions, as noted in Annex 1 of the Historical Overview.²⁶

The ICANN org requested input from registry operators for proposed measures to address confusion concerns, resulting in the creation of a standard framework of measures that could be implemented across any gTLD registry. Such a standard framework alleviates the need for governments to comment on every request for release of a two-character label, and it also stipulates that the registry operators “include a provision in the registry’s registration policy requiring registrants to avoid misrepresenting affiliation with a government or ccTLD” and “investigate and respond to reports of confusion from government or ccTLD operators”. Additionally, the measures urged, based on the Advice in the Helsinki Communiqué, that “the relevant Registry or the Registrar to engage with the relevant GAC members when a risk is identified in order to come to an agreement on

²³ See: <https://gac.icann.org/briefing-materials/icann63-2-characters-briefing-v2-20oct18.pdf>.

²⁴ See: <https://www.icann.org/resources/board-material/resolutions-2016-11-08-en#2.a>.

²⁵ See also Historical Overview, pgs. 5-12.

²⁶ At the “GAC Meeting on Two Character Codes Implementation” at ICANN55, the ICANN org explained the phases of development and answered questions on the process. See transcript of the meeting here: <https://meetings.icann.org/en/marrakech55/schedule/wed-gac-two-character-codes>.

how to manage it or to have a third-party assessment of the situation if the name is already registered.”²⁷

b. *ICANN Board not providing a satisfactory explanation for the “changes created by the 8 November 2016 Resolution”*,

Org Response: Prior to the resolution being taken, the ICANN org engaged with the GAC on multiple occasions to discuss the multi-phased development of the procedure and measures, as provided in Annex 1 of the Historical Overview. Additionally, following the resolution, the ICANN org engaged with concerned governments in telephone conversations on 17 May 2017 to explain the process and rationale leading up to the authorization of release of two-character labels. The ICANN org also discussed the authorization of two-character labels and the compliance process related to instances of misuses of such labels with the GAC at ICANN59 in Johannesburg.²⁸

c. *ICANN Board not adopting measures to prevent further consequences from the “changes created by the 8 November 2016 Resolution” for the concerned GAC members.*

Org Response: The ICANN org developed the process for release of two-character labels bearing in mind issues related to security, stability, and user confusion.²⁹ It should be noted that although the Board resolved to allow the ICANN org to authorize the release of two-character labels across all new gTLD registry operators in November 2016, two-character domains have existed in many legacy gTLDs and ccTLDs for years without apparent confusion, security or stability issues to the DNS. Examples of existing two-character domains include ME.CN and AW.ORG. ME.CN is a website for a mobile game and entertainment company whose domain name was originally registered in January 2014—‘ME’ corresponds with the country code for Montenegro and .CN is the ccTLD for China. AW.ORG is a website for an educational institution whose domain name was originally registered in January 1997—‘AW’ corresponds with the country code for Aruba. Additional examples can be found in Annex 3 of the Historical Overview.

Additionally, the ICANN org has taken numerous steps to address concerns regarding registration of two-character second-level domains, as described above in the ICANN org memo. For example, the ICANN org committed to developing a webpage that allows GAC members to track registration of two-character domains that correspond with their country codes. Likewise, should the ICANN org become aware that a registry operator is not complying with the required measures, the issue can be referred to ICANN Contractual Compliance for investigation and follow up.³⁰

2. With respect to Board resolution of 8 November 2016, the GAC considers that there have been serious procedural flaws in the decision-making process, including:

²⁷ See: <https://www.icann.org/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf>.

²⁸ See Historical Overview, pgs. 9-12.

²⁹ See also the 2006 RSTEP report on two-character domains at the second level:

<https://www.icann.org/en/system/files/files/rstep-gnr-proposal-review-team-report-04dec06-en.pdf>.

³⁰ *Ibid.*, pg. 8.

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- a. *The Board adopting a decision significantly affecting a process that was the subject of a pending GAC Advice before it had considered and responded to that Advice.*

Org Response: The ICANN org notes that the Board did not formally resolve on the GAC Helsinki Advice until after the 8 November 2016 resolution at a Special Meeting of the Board on [13 December 2016](#). Steve Crocker noted in a [letter](#) to Thomas Schneider in October 2016 that the Board did not finalize consideration of the Helsinki Advice when initially intended. However, while the Board did not formally consider the above Advice until this time, the ICANN org notes that it was discussed in the Board prior to this date and during deliberations regarding the 8 November 2016 resolution (as noted in the “Whereas” clauses of the 8 November 2016 resolution). Likewise, the Proposed Measures included a direct reference to the Helsinki Advice.³¹

Subsequent to consideration of the Helsinki Advice in December 2016, the ICANN org instituted a new GAC Advice consideration process to ensure that all Advice is considered in a timely fashion and at least four weeks prior to the subsequent ICANN meeting. This new process has been used for every Communiqué starting with the Copenhagen Communiqué.

- b. *The Board adopting a decision significantly affecting a process recommended under GAC Advice, particularly where there were subsequent uncertainties regarding the interpretation of new GAC Advice, without further consultation with the GAC.*

Org Response: The ICANN org implemented the process of release of two-characters based on Board direction. Advice from the Los Angeles, Singapore, Dublin and Helsinki Communiqués was fully considered in the development of the mitigation measures.³² The ICANN org also took steps to ensure that the GAC was aware of each step in the process as it was being implemented, as shown in Annex 1 of the Historical Overview.

3. The removal of the “Authorization Process” was inconsistent with GAC Advice.

- 1) *The “Authorization process” for the release of 2-character country codes ensured that:*
- *Governments, unless they indicated otherwise, were notified and could provide comments on requests for the release of their country codes. “For labels that receive objections from relevant governments, the labels will remain reserved.”*

Org Response: The ICANN org notes that the GAC has cited a letter from Akram Atallah to the registries Stakeholder Group (RySG) from March 2015.³³ As discussed in the ICANN org memo above and in the Historical Overview, the ICANN org announced a new procedure for release of two-character ASCII labels in December 2014. This was an first phase of the development of a process to authorize release of two-character domains at the second level and was intended to support language in Specification 5, Section 2 of the Registry Agreement regarding Path 2.

³¹ See: <https://www.icann.org/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf>.

³² See Historical Overview, pgs. 5-12.

³³ See: <https://www.icann.org/en/system/files/correspondence/atallah-to-rysg-23mar15-en.pdf>.

Based on feedback from GAC members and registry operators after this initial phase, the ICANN org initiated efforts to improve the process beginning in August 2015.³⁴ The August 2015 improvements included a process for fully considering government comments received at this time (and to allow governments to clarify previous comments), stipulating that comments that do not pertain to user confusion would not be sufficient to block the release of two-character domains at the second level, consistent with Path 2 of Specification 5, Section 2 of the Registry Agreement.³⁵

Subsequently, the ICANN org developed a standard framework for release of all two-character labels based on input from the GAC, registries and other community members, as described in the ICANN org memo above and in the Historical Overview.³⁶

- 2) *GAC Advice recommended the establishment and retention by ICANN of the “Authorization Process”, i.e. a process where governments had a role to play before the release of their country codes.*
 - *In the Los Angeles Communiqué (15 October 2014), the GAC issued advice to the Board “ask[ing] that relevant governments be alerted by ICANN about these requests [by gTLDs registry operators to use two-character labels at the second level of their TLD] as they arise.”³⁷*

Org Response: Although there was no consensus advice on this issue, based on the RSEP requests the Board directed the ICANN org to create and implement an efficient procedure for the release of two-character labels, taking into consideration GAC advice, leading to the procedure announced in December 2014.³⁸

- *In the Dublin Communiqué (21 October 2015), the GAC advised the Board that “comments submitted by the relevant Governments be fully considered regardless of the grounds for objection”, having “note[d] that the process for considering comments [revised taking into account the Singapore advice] [was] not consistent with [that] GAC advice which recommended that governments’ comments be fully considered.”³⁹*

Org Response: The ICANN org fully considered comments received from governments in relation to any gTLD for which the comment was submitted, including the public comments submitted by governments throughout the process, from the initial public comments on the RSEP requests to the 2016 public comment for the Proposed Measures for Letter/Letter Two-Character ASCII Labels to Avoid Confusion with Corresponding Country Codes.⁴⁰

³⁴ See: <https://www.icann.org/news/blog/resolving-the-release-of-two-character-ascii-labels-with-comments>.

³⁵ *Ibid.* See “1. ICANN reaches out to all relevant governments to further clarify their comments”: “As ICANN evaluates the responses to our outreach, comments not pertaining to confusion might be directed to recourse mechanisms outside of the Authorization Process, such as the Abuse Point of Contact, which is used when abuse is suspected.”

³⁶ See Historical Overview, pgs. 5-12.

³⁷ See: <https://gac.icann.org/contentMigrated/icann51-los-angeles-communication>.

³⁸ See Historical Overview, pgs. 5-12.

³⁹ See: <https://gac.icann.org/contentMigrated/icann54-dublin-communication>.

⁴⁰ See: <https://www.icann.org/en/system/files/files/summary-comments-government-two-char-08jul16-en.pdf>; <https://www.icann.org/public-comments/proposed-measures-two-char-2016-07-08-en>.

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- *In the Helsinki Communiqué (30 June 2016), the GAC clarified that, with regard the “Authorization Process”, “in the event that no preference has been stated, a lack of response should not be considered consent.”⁴¹*

Org Response: The ICANN org notes that the full text of the Helsinki Consensus Advice was, as follows:

The GAC has discussed plans proposed by Registry Operators to mitigate the risk of confusion between country codes and 2-letter second level domains under new gTLDs. Some countries and territories have stated they require no notification for the release of their 2 letter codes for use at the second level. The GAC considers that, in the event that no preference has been stated, a lack of response should not be considered consent. Some other countries and territories require that an applicant obtains explicit agreement of the country/territory whose 2- letter code isto be used at the second level.

a. The GAC advises the ICANN Board to: i. urge the relevant Registry or the Registrar to engage with the relevant GAC members when a risk is identified in order to come to an agreement on how to manage it or to have a third-party assessment of the situation if the name is already registered.

The ICANN org developed the process for release of two-characters in consultation with the ICANN community and over several public comment periods in which GAC members participated. Additionally, the ICANN org would like to emphasize that the GAC’s advice was taken into account and was referred to directly in the Proposed Measures.⁴²

3) *ICANN developed and implemented this “Authorization Process” because of GAC Advice accepted by the Board.*

Org Response: Based on the RSEP requests, the Board directed the ICANN org in October 2014 to create and implement an efficient procedure for the release of two-character labels.⁴³ The subsequent steps taken by the ICANN org to implement the procedure were done based on Board direction as a result of the RSEP requests and not as a direct result of the GAC Advice.

- *In response to the Los Angeles advice, under Board resolution of 16 October 2014, “the Board authorize[d] 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.”⁴⁴*
- *In response to the Singapore advice, under Board resolution of 12 February 2015, the Board “accept[ed] 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 direct[ed] the President and CEO, or his designee(s), to revise the Authorization Process for Release of Two-Character ASCII Labels”.⁴⁵*

⁴¹ See: <https://gac.icann.org/content/Migrated/icann56-helsinki-communication>.

⁴² See Historical Overview, pgs. 8-9. See also: <https://www.icann.org/en/system/files/files/proposed-measures-two-char-08jul16-en.pdf>.

⁴³ See: <https://features.icann.org/introduction-two-character-domain-names-new-gtld-namespace>.

⁴⁴ See: <https://www.icann.org/resources/board-material/resolutions-2014-10-16-en#2.b>.

⁴⁵ See: <https://www.icann.org/resources/board-material/resolutions-2015-02-12-en#2.a>.

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- *In response to the Dublin advice, under Board resolution of 3 February 2016, the Board “clarifie[d] that all comments from relevant governments are fully considered under the current process.”⁴⁶*

Org Response: The ICANN org refers the GAC to the detailed explanations in the Historical Overview regarding the subsequent actions taken by the ICANN org following the Board resolutions cited here.

4) *Notwithstanding all the above, Board resolution of 8 November 2016 authorized the replacement of the “Authorization Process” by a “blanket authorization” for the release of all country codes.⁴⁷*

- *By virtue of the “blanket authorization”, governments are no longer alerted of requests of release of their country codes, nor do they play a role in the release process anymore, as has been recommended in GAC advice.⁴⁸*

Org Response: The ICANN org notes that the 13 December 2016 authorization for the release of letter/letter two-character ASCII labels at the second level is not an automatic authorization for all registries. The authorization dictates mandatory measures registry operators must abide by should they choose to release two-letter domains at the second level that correspond to country codes. These measures require registry operators to address potential confusion with two-character country codes and are subject to full oversight and enforcement of the ICANN Contractual Compliance department.

Additionally, the authorization for release and the mitigation measures were part of a public comment period and their development was communicated to and discussed with the GAC on multiple occasions (as described in Annex 1 of the Historical Overview). GAC members also participated in the public comment periods, and GAC members’ comments were reviewed in the same manner as all public comments at ICANN: a cross-functional team within ICANN reviewed all submissions, summarized them, and then published a report with the analysis.⁴⁹

⁴⁶ See: <https://www.icann.org/resources/board-material/resolutions-2016-02-03-en#2.e>.

⁴⁷ See: <https://www.icann.org/resources/board-material/resolutions-2016-11-08-en#2.a>.

⁴⁸ See: <https://www.icann.org/en/system/files/files/two-character-ltr-ltr-authorization-release-13dec16-en.pdf>.

⁴⁹ See: <https://www.icann.org/en/system/files/files/report-comments-proposed-measures-two-char-ascii-23sep16-en.pdf>.

