

INTERNATIONAL TELECOMMUNICATION UNION

*Telecommunication
Development Bureau*



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Mr. Rob Beckstrom
CEO and President
ICANN

Subject: **Issues related to the creation of **.arab** gTLD**

Dear Mr. Beckstrom,

The Telecommunication Development Bureau ("BDT") of the International Telecommunication Union ("ITU"), has been formally requested by the League of Arab States ("LAS"), through the Council of Ministers of Communication and Information, to assist LAS in the creation of **.arab** and **عرب**. generic Top Level Domain (gTLDs), within the framework of the New gTLD Program established by Internet Corporation for Assigned Names and Numbers ("ICANN").

The LAS has been identified by the Arab Region as the designated entity concerning the registration, operation and administration of Arabic gTLDs, and is coordinating with BDT on the related activities, carried out within the framework of ITU-D Arab Regional Initiatives.

The LAS, with technical and policy assistance from the BDT, operates under the supervision of a Steering Committee, created to facilitate coordination among the Arab countries, recognizes that the introduction of new gTLDs should respect public sector applicants, including government, regions, and intergovernmental organizations.

In addition, the new gTLD policies, including the application and objection procedures, need to take into account the specific legal framework under which the respective entity/community is operating in the TLD regime.

BDT, for and on behalf of LAS, has therefore identified four key issues (listed below) involving the development of the policies and principles related to the creation of **.arab** within the framework of ICANN's gTLD program.

BDT, on behalf of the LAS would like ICANN to look into how these issues can be addressed as they directly affect the creation of the **.arab** gTLD.

1. The new gTLD Registry Agreement;
 - a. A suitable template Registry Agreement with the appropriate regime for the applicant
 - b. A greater flexibility in the application and objection procedures for the applicant.
2. The financial instruments for new gTLD applicants
 - a. A better structure of the finance instrument reflecting financial ability of the applicant;
 - b. A cost-based structure of fees taking into account a high public interest of the applicant
3. Enhanced protection for strings that are a meaningful representation or abbreviation of a country name or territory name;
 - a. It is necessary to provide a more appropriate definition of TLD string, such as names or abbreviations of geographical gTLDs.
 - b. The new gTLD program needs to have more diverse categories of gTLDs with various policy accommodations, such as a separate gTLD category for a public sector applicant.
4. ICANN communications plan
 - a. It is also important to ensure that ICANN's communication plan recognizes the public sector as one of its main audiences.

These above issues, detailed in the Annex, directly impact on public sector entities, (such as LAS) that want to apply for Arabic gTLD, **.arab** and **عرب**. and therefore should be taken into account in the upcoming version 4 of the new gTLD Draft Application Guidebook.

I would like express my apprececiation in advance for the attention you accord to this correspondence, and I look forward very much to our continued successful collaboration.

Yours sincerely,



Sami Al Basheer Al Morshid
Director

ANNEX

1. New gTLD Registry Agreement

A separate TLD category is required for the public sector applicants to reflect the specific public interest purposes of their gTLDs, establish particular policies to reflect the regional/national sovereignty, and to avoid automatically falling under the established unilateral consensus policy.

The following issues need to be addressed in a separate template registry agreement for public section applicants, (such as LAS):

- **Indemnification of ICANN by public sector applicants;**
- **Compliance with consensus policies that might be in conflict with national laws;**
- **Transition of the TLD;**
- **IP Rights in the data;**
- **Damages for failure to perform in good faith; and**
- **Arbitration**

Another issue that impacts the creation of “.arab” gTLD is the ICANN staff proposal in the current gTLD template Registry Agreement to allow **ICANN the ability to make unilaterally contractual changes across all gTLD registry agreements**. ICANN's registry stakeholder group has been strongly advocating the inequalities associated with such a provision.¹

2. Financial Instruments

The third version of the DAG requires that applicants provide ICANN with either an irrevocable standby letter of credit (LOC) or a deposit in an irrevocable cash escrow account. These finance instruments are designed to ensure the performance of basic registry functions for a minimum of three years following the termination of the registry agreement. In a separate document ICANN recently released entitled, “Benchmarking of Registry Operations,” a survey was conducted among participating registry operators to help provide a range of registry operation metrics.² On the metric of financial costs associated with annual registry operations, the survey indicated a number in the range of **2 million USD per annum** for a small registry.

While this range may be suitable for private sector applicants, especially for profit ones, there would appear to be the need to modify the terms of these financial instruments in connection with public sector applicants, where IGOs and national governments are involved in the process.

This would impact directly in the financial instruments to be applied to the .ARAB.

3. Enhanced Protection for Strings that are a Meaningful Representation or Abbreviation of a Country Name or Territory Name

Under the current ICANN draft criteria set forth in section 2.1.1.4.1 of the DAG, it is unlikely that the LAS would succeed in seeking an application for a .ARAB gTLD as a geographical name because it does not appear to be:

- (1) a ISO-3166 country name or territory;
- (2) a sub national place name;

¹ Registries Stakeholder Group submission to ICANN in connection with DAG 3.0 , Modules 5-6, see <http://forum.icann.org/lists/3gtld-guide/msg00086.html>

² See <http://www.icann.org/en/topics/new-gtlds/benchmarking-report-15feb10-en.pdf>

- (3) a capital city;
- (4) city name; or
- (5) a continent or UN region appearing on the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings.”

Therefore, the LAS would have to seek the .ARAB gTLD as a community based application to avoid a potential auction process should another party also seek the .ARAB string.

Under the current Community Priority (Comparative) Evaluation Procedure set forth in Section 4.2.2 of the DAG, the LAS would have to score 14 out of a possible 16 points to avoid an auction. While it is possible for the LAS to achieve this ranking, there is little room from error particularly in connection with criteria 2.B (Uniqueness) and 4.B (Opposition).

As a regional brand for Arab countries, the “.arab” and “عرب.” should be guaranteed for the Arab region as a geographical name. Therefore it is strongly recommended for ICANN to modify the DAG in connection with geographic identifiers, in order to include a category that reflects the characteristics of the Arab region.³

4. Communication Plan

ICANN has been engaged in a global communication plan in connection with the new gTLD process since as early as June 2008. However, the ICANN Board during its regional meeting in Nairobi, Kenya, passed a resolution to launch the formal communications plan in connection the new gTLD Program following resolution of the overarching issues. This formal communication plan is to be tailored according to the relevant program phases and developments and consider a full range of global audiences.

It is important to ensure that the communication plan recognize the public sector as one of main audiences to ensure that the intergovernmental organizations, such as the LAS, are properly informed of continuing developments.

³ The Arab Region is a recognized region of the Development Sector of the ITU (ITU-D) - (see <http://www.itu.int/ITU-D/arb>)