ICANN
Transcription
IGO-INGO Protections Policy Development Process (PDP) Working Group
Wednesday 5 December at 18:00 UTC

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http://audio.icann.org/gnso/gnso-igo-ingo-20121205-en.mp3

on page http://gnso.icann.org/en/calendar/#dec

<u>Attendees:</u>
Wilson Abigaba – NCSG
Donna Austin – AusRegistry
Lanre Ajayi - Nominating Committee Appointee
Iliya Bazlyankov – RrSG
Mason Cole - RrSG
Avri Doria – NCSG
Bret Fauset – RySG
Elizabeth Finberg – RySG
Chuck Gomes – RySG
Alan Greenberg – ALAC
Robin Gross – NCSG
Stephane Hankins – IPC
David Heasley – IPC
Evan Lebovitch – ALAC
David Maher – RySG
Kiran Malancharuvil – IPC
Claudia MacMaster Tamarit - ISO
Jeff Neuman – RySG
Jon Nevett – NTAG
Osvaldo Novoa – ISPCP
David Opderbeck – NCSG
Christopher Rassi – Red Cross
Thomas Rickert – NCA
David Roache-Turner - WIPO
Greg Shatan – IPC
Cintra Sooknanan – NPOC
Liz Williams – Individual

<u>Apology :</u>
Paul Diaz – RySG
Ricardo Guilherme - RySG

<u>ICANN Staff:</u>
Margie Milam
Barbara Roseman
Brian Peck
Berry Cobb
Julia Charvolen

Coordinator: Excuse me, I'd like to inform all parties that the recordings have now begun. If you have any objections you may disconnect at this time.

Julia Charvolen: Thank you. Good morning, good afternoon, good evening. This is the IGO INGO Protections Policy Development Process Working Group call on Wednesday, 5 December.

On the call today we have Wilson Abigaba, Donna Austin, Lanre Ayaji, Iliya Bazlyankov, Bret Fauset, Elizabeth Finberg, Chuck Gomes, Alan Greenberg, Stephan Hankins, David Heasley, David Maher, Kiran Malancharuvil, Osvaldo Novoa, David Opderbeck, Christopher Rassi, Thomas Rickert, Cintra Sooknanan, and Liz Williams. We also have Claudia McMaster Timarit and Mason Cole.

We have apologies from Paul Diaz and Ricardo Guilherme.

From staff we have Berry Cobb, Brian Peck, Margie Milam, and myself, Julia Charvolen.

I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and over to you.

Thomas Rickert: Thank you very much, (Julia). This is Thomas Rickert speaking and I'd like to welcome you all to this working group call. Before we dive into it I would like to ask whether there are any updates to the statement of interest?

Evan Leibovitch: Thomas, this is Evan Leibovitch. I don't have a new statement of interest but I did join the call after the list of participant was read.

Thomas Rickert: Great, welcome, Evan. Hearing none I take there are no updates to statement of interests, which allows us to move to the third item on the

agenda and that is the status of the General Council request. And I think that this is a subject that Brian will give us an update on.

Brian Peck: Sure, thank you, Thomas. This is Brian Peck from staff. Just to let you know, we did check with the General Council's office. They are working on responding...

Thomas Rickert: Excuse me, Brian.

Brian Peck: Sure.

Thomas Rickert: We can hardly hear you.

Brian Peck: Okay, there it is. Okay, sure. Brian Peck from ICANN staff. We did check with the General Council's office earlier. They are working on the response to the question posed to them. They have asked for a little bit more time given the complexity of the issue. They will endeavor to have a response by next Wednesday, the 12th, and if not certainly by the 19th.

Thomas Rickert: Okay, thank you very much. And so we'll leave it at that for this agenda item. You might remember that during last week's call we had a quite vivid discussion - quite fundamental discussion on whether protections should be granted or not.

                 And in the course of this discussion the question came up whether we would duplicate work and what the reasons for the reserved names, what group were to protect certain names while others were not put on the reserved names list.

                 This is the reason why we have chosen to invite Chuck Gomes who was the Chair of the reserved names working group at the time to give us a ten-minute overview of the work the group has done and maybe to - this will help

us define a little bit more clearly how they have approached an issue that is at least partially congruent to the issue we're facing today.

Chuck, over to you. And thank you for your willingness to contribute to this.

Chuck Gomes: Thanks, Thomas. And good morning, good afternoon, good day to everybody. First of all let me tell you that the reserved names working group was a part of the new gTLD PDP and fed into that. And it's recommendations were incorporated into the ultimate recommendations that were approved by a simple majority of the GNSO Council.

Also, I need to let you know that that work occurred and that working group happened back to 2006. So I'm going to go mainly on memory so somebody was on that working group please - and I know Avrie was but I don't know if she's on the call or not. Please feel free to correct me if I misstate anything.

Ultimately the working group was fairly conservative I think in their recommendations. We felt like the - and we did look at governments, reserving names for governments and so forth as many of you know, that's been changed.

So our recommendations were not followed when it came down to implementation on that and there's a variety of changes that were made for - with regard to reserving names of governments.

We did come to the conclusion that the - we should use the rights protection mechanisms that were built into the recommendations to deal with names that where rights might be violated, that was a general principle that came out.

To my recollection we never specifically considered nor was it brought up I don't believe, the IOC or the Red Cross, but IGOs did come up in our discussions. And again, the results of the working group and later affirmed by

the full Council in the ultimate recommendations sent to the Board was to not add a lot of reserved names.

Now there was the country - two-digit county code, the top-level domains that were reserved but other than that it was an approach basically to rely on the rights protection mechanisms to deal with the issues of abuse.

Thomas Rickert: Okay, thank you, Chuck. Are there any questions for Chuck? Liz, I have you seen mentioning in the chat that you're there to help. Is there anything that you would like to add?

Liz Williams: Yes, thanks very much. It's Liz Williams speaking. I was the ICANN staff member at the time between 2005 and 2008 who - and all of the new TLD policy development processes for not only the overall policy but also the protections and rights of others, which is the intellectual property discussions and the reserved names group.

And one of the reasons why I've been so vociferous in my criticism of reopening these policy issues is that many of us over many months spent many hours arriving at policy recommendations that closed off the discussion.

And this (unintelligible) different yet - the reopening of the discussion is no different from my vociferous criticism of the protecting of the rights of other groups which seeks to expand the rights protection mechanisms for trademark owners. So nothing that I am saying is inconsistent with what I've been saying for many years.

And I would urge the group to think seriously about what it is they're doing because I believe that this group is in grave danger of having an end run done around them with the Board coming in over the top and making decisions that are not at all consensus based.

And I urge you all to reconsider the discussion from last week which was the consideration of whether at a level of principle these particular organizations or anyone else require special protections at the top and second level at all.

And I - at a philosophical level am very consistent about that and in terms of the operational work that we've done within ICANN and - within a number of different working groups I would urge you all to be extremely cautious about which way you're going to go with this.

Thomas Rickert: Thank you, (Liz). I have Evan next.

Evan Leibovitch: Thanks, Chuck, I have a question for you as somebody who didn't join the ICANN volunteer (unintelligible) until after that was - your work there was done.

Right now I see names protections taking a whole bunch of different paths within ICANN. We got the trademark folk going their way with the URS and the DRP. We've got, you know, the map host stuff that has turned into the objection processes based on government complaints. And we have this.

Was there once an intention to try and have a single regime that would take a higher level view of all needs to reserve names? Is there a reason why these paths had to take such diversion - diversionary tracks, one for trademark owners, one for non-profits, and one for what we generally look - charitably call (MAPO)?

Chuck Gomes: Thanks, Evan. All right, I think that - I think a very pragmatic way to answer the question, why did it take off in so many different directions is because a lot of organizations and a lot of groups didn't get what they wanted, that's fairly blunt, okay.

Now - I don't know if that answers your question enough but I think that's the honest answer.

Evan Leibovitch: It actually goes to my wondering why tools such as the URS which is right now being - you know, a primary component of protecting trademarks is not seemingly applicable to the work we're doing here. Or could it?

That's where I'm trying to figure out whether or not mechanisms that worked elsewhere are immediately inappropriate in other places.

Chuck Gomes: What - I'm not sure what you're asking me in that regard.

Evan Leibovitch: Well, just that the trademark path came with the UDRP and the URS and we're trying to come up with something else. So in the possibility of saying, well, maybe mechanisms that worked in other streams might be workable here, you know.

Could the URS be extended for instance to work with IGOs? That's why I'm trying to figure out what the rationale was for the split in the first place and that's what I was trying to get at.

Chuck Gomes: Well, yes, thanks, Evan. You know, it's not that we specifically talked - you know, came up with a rationale for leaving these various groups out that we decided that the best way to deal with rights issues was through the rights protection mechanisms that were built into the new gTLD recommendations.

Now coming back to - you know, first of all, (Liz), I agree totally with you that we have to be very careful about reopening processes that have taken a lot of time and come up with conclusions.

But I will qualify that with this, as everyone knows, we're talking about a hugely long process from the end of 2005 to now. And so in that sense I have to confess that - you know, it is quite - first of all, we can't claim that we came up with the perfect solution.

So it's not surprising that people would disagree with that. But secondly, because the process has taken such a long period of time and at that time we - I mean most of us a year ago were guessing what the implications would be in terms of the number of applications and so forth.

And of course, now we have a lot more information on that and that adds some clarity to where we're going. So I totally agree with (Liz) that we have to be very careful about changing things that - changing recommendations that a process resulted in.

Now back then we had the same problem we have now, it's very difficult to get governments involved. And a lot of you weren't involved in that time as well. So it's not surprising that new information has come forward.

Now what we do with that is what this group is all about with regard to the issues we're dealing with. But I think (Liz) is right, we need to keep that in mind and not just be too quick to change policy recommendations.

But at the same time I think it makes sense for us to look openly at the concerns that have been raised and try to work together to come up with some recommendations that the community today can support.

Thomas Rickert: Thanks, Chuck. I have Alan, David, and then Margie.

Alan Greenberg: Thank you very much, a couple of things. We keep on talking about existing rights protections and I think it's important to remember that most of the existing ones are remedial, that is they fix a problem when they happen.

And what people are asking for, both in this - in these requests and the current blocking request from the IP/BC people are preventative.

So we're looking at perhaps two different complete mechanisms and trying to decide whether that is needed.

But on the point that Evan raised, first of all, my understanding is - if I remember correctly, URS does apply to these organizations, certainly to ones governed by treaty.

The UDRP does not and for those who weren't around at the time or haven't read the thousands of pages of documentation there was an effort in the same timeframe that Chuck is talking about to put in place something equivalent to the UDRP or perhaps change it so that it applied to IGOs. A significant amount of work including drafting a policy was done.

And - but eventually it was put aside on the theory that the new gTLD process would address it, which clearly it hasn't. So there's all sorts of little bits of history around - we need to remember as we go forward, thank you.

Chuck Gomes: And Thomas, if I can just respond real quickly to Alan, the reserved names working group did consider the possibility of preventative type measures like changing the reserved names list and elected to go a different direction.

Thomas Rickert: Yes, David, please.

David Maher: I just wanted to say that shortly before this meeting I suggested in a correspondence to the group that one of the possibilities for this group is to consider amendments or improvements to all of the rights protection mechanisms to make it clearer that their are protections are available to IGOs.

Thomas Rickert: Thank you, David. For those who intend to make interventions at this stage let me remind you that the purpose of Chuck's slot is to remind us of the history and what happened at that time. So let's leave discussing the question of what we're doing now for a later stage in our call.

Margie, please.

Margie Milam: Yes, this is Margie. I also wanted to clarify from a observable perspective that a lot of this has also been triggered by the GAC's intervention and part of the process, you know, certainly involves the GNSO Council coming up with policy.

But there is a point when the GAC is able to provide its viewpoint and that also is - you know, part of the history in why this issue is coming up now. So I just wanted to clarify that.

Chuck Gomes: And Chuck again, I want to complement that just briefly, Margie. And the GAC did provide some input to the reserved names working group. The group at that time elected not to reserve government names like the GAC recommended.

So it wasn't as if there was no GAC input then but a decision was made in the group at that time and later confirmed by the Council to not go that route.

Thomas Rickert: Okay, any more questions for Chuck? Okay, I have one. Chuck, you mentioned that the - at least the IGO topic was discussed at the time but that the group chose to leave that to the RPMs within the framework of the new gTLD program.

Now we see that not all of the upcoming RPMs are open to IGO names. Would you qualify this retrospectively as an implementation glitch?

Chuck Gomes: Not necessarily. It could have been a glitch on our part as well. I mean maybe we should have looked at that further, maybe we should have - I mean we obviously didn't know anything about the new RPMs that have been added, right, at that time but - during the implementation phase.

But we did know about the UDRP and maybe it would have been good for us to look at the fact that, you know, governmental organizations were not

included in that. You know, we didn't obviously so maybe that was a glitch on our part.

Thomas Rickert: Well, this was certainly not to blame any party but I'm trying to find out whether the group at the time had foreseen protections that just through implementation did not come through. I have (Jeff) now.

Jeff Neuman: Yes, I wanted to comment on that because - so I was around back then as well and I complement Chuck on his memory. There was - the lack of inclusion of the IGOs was actually a purposeful decision at that point with respect to UDRP.

It had only been a couple years since (WIPO) has started what they call the (WIPO) 2 process which was for the protection of IGO names and INNs I think they were called, the pharmaceutical names. I may have that abbreviation wrong.

But there was a process, I want to say 2002 through 2004 where (WIPO) had a round of consultations in order to include IGOs and pharmaceutical names in the UDRP.

The ICANN Board had specifically addressed this issue and voted it down. And led by a committee that was put together by the Board, I think (Jonathan Cohen) had led that initiative back in the early 2000s of getting all the input in.

In fact, at that time a number of governments actually opposed the inclusion of IGOs in the UDRP because at the time it was seen as adding additional protections that were above and beyond what the law granted in a number of the countries.

So for example, in the United States there's no - I shouldn't say there's no, but there's - but the protections for IGOs are not as (unintelligible) as in other countries.

Thomas Rickert: Somebody is (unintelligible).

((Crosstalk))

Thomas Rickert: Can you please put your microphones on mute if you're not speaking, thank you.

Jeff Neuman: So I'm not saying things haven't changed and I'm sure people like - I know (David) down here from (WIPO) but at the time it was definitely a conscious decision by the people that were in the reserved names working group and others not to include the IGOs in the UDRP or even to recommend it because of the process that had just ended a couple years prior.

Now again, that's just historical. I'm not saying that needs to be binding now going forward. But I don't see it as a glitch back then. I see it was done purposefully.

Thomas Rickert: Okay, I think what I'm - and sorry for keeping on asking but there have been allegations that the work that this group is conducting might contravene from a policy work of this reserved names working group. And I'm trying to find out whether this is true or not.

In other words, whether the group at the time had foreseen certain protections to be in place or whether it was an intentional decision not to grant any protections either by not putting certain designations on the reserved names list or foreseeing that those protections would stem from other RPMs. Chuck?

Chuck Gomes: In response to your question, Thomas, I - (Jeff) said it correctly. I mean whereas we didn't specifically look at Red Cross and IOC.

In looking at IGOs and even government names, okay, it was a conscious decision on the part of the group with the consensus on the part of the group, I can't say that it was full consensus, but consensus - strong support on the part of the reserved names working group to not add names like that to the reserved names list.

So to change that now, yes, it would be contravention of policy that was approved. I'm not saying that because I think that we necessarily should not do that but I think the answer is, yes, it would be going a different direction than what was recommended.

Thomas Rickert: Well, we would - you know, in order for that to contravene we would need to use the reserved names list as a tool. You know, there might be other solutions to it but that's very helpful because I think that's maybe one of the major concerns that have been voiced.

I have Alan and then I would like to move to the next topic.

Alan Greenberg: Yes, just one quick comment, use the term contravene and I don't think that's the appropriate term. This is a policy process and it may well result in a different policy process than the previous one did. And things change over time.

But contravene sort of says we're doing something which is illegal and I think we're going through due process right now on potentially changing something. So there's a subtle difference between the two or maybe not subtle, thank you.

Thomas Rickert: Thanks for the clarification. Brian, may I now invite you to give us some information on the final issue report on the IGO/INGO names.

Brian Peck: Sure, thank you, Thomas. And my apologies up front for those of you who are already familiar with the report but given the number of new people that have

joined this working group we'd like to briefly summarize the objectives and the recommendations report as well as I think I'll spend most of the time during this brief presentation on the issues that the issue report identified as issues to - as to be concerned by this working group.

The final issue report with the recommendations and the key aspects were both adopted and reflected by - well, adopted by the GNSO Council in initiating this PDP. Basically that the PDP was initiated. We have representatives from the IGOs, Red Cross/Red Crescent movement, and the IOC movement participating in our working group.

We did recommend and the GNSO Council did adopt or approve that the PDP scope would consider expanding any new gTLD protections for these organizations to existing gTLDs as well.

And of course, in our working group charter we are trying to, you know, facilitate an expedited work plan, you know, in order to meet the timelines we're all aware of in terms of the designation of the first round of new gTLDs next year.

In terms of the objectives and issues to be taken up by the working group, again, these are reflected in the working group charter that was adopted by this group. The objective, of course, is to define the type of organizations that qualify for any top and second level protections.

And of course, it just mentions structure the PDP in such a way to effectively determine any recommendations in a timely fashion given the designation of the new gTLDs. And of course now mechanisms to accommodate any protections that would expend to all new - all gTLDs, excuse me.

In terms of - sorry, in terms of the issues to explore, again, most of these I think are reflected in the working group charter, but just to kind of briefly give a little background on - these are identified in more detail in the report itself -

the definition of the international organizations, what is the scope of international organizations that should be - or that could be qualified or eligible for any protection recommendations that come out of the work of this group.

Quantifying entities, the report notes that for example just - you know, in some brief research of a number of IGOs may exceed over 5,000. The number of non-profit INGOs may exceed over 35,000.

So obviously these are huge numbers and so not only defining the scope of the organizations that could qualify for any possible protections the need to quantify, you know, whether we narrow that scope, the group narrows that scope or how you deal with that kind of number of eligible - possibly eligible organizations that are out there depending on the criteria or the recommendations that - other recommendations that this group comes up with.

Another suggested issue to consider is the scope of existing protections under international treaties and international laws for the Red Cross, ICO, and IGO names. The report does report - or excuse me, does include the existing treaties and other (unintelligible) that have been (unintelligible) for by their respective organizations.

The report also notes that there are exceptions to these treaties and national laws. And so, you know, it's recommended the group does take a look at this to see, you know, does the extent of the current scope of protections, does that - how does that come into play in terms of determining any additional special protections that may be deemed appropriate by this group.

Distinguishing between the Red Cross, IOC, from other international organizations.

There are obviously some differences between IGOs and these two particular organizations or other similar international non-government organizations but the report notes the submission by the IGOs that indeed, you know, if you look at the criteria of the GAC, which basically is an organization for - I'm sorry, for the protection of the Red Cross and IOC names, the two criteria - primary criteria are, one, that they protected by international treaties along with protection of domestic laws and multiple jurisdictions.

The IGO in their position believes that they also could meet that criteria as well. So the group looking at, you know, what are the differences in determining any possible recommendations or criteria that could be established in determining protection for these types of organizations.

The other final issue the report raises and discusses is establishing an objective set of criteria to determine which international organizations could qualify for any special protections. And there are several sets of criteria that are included in the final issue report, one is, of course, the GAC that was established for the Red Cross and IOC names. The other is the .INT criteria for registration of a .INT name for IGOs.

There was the staff recommendations - or not recommendations but suggestions for criteria that were issued in the primarily issue report that were subject to several public comments, you know, before the final issue report was drafted and included those comments.

The IGOs have proposed a different set of criteria. And then, of course, there were the criteria that was suggested by the workshop paper that the Board reviewed in its - making its original adoption for protecting the IOC and Red Cross names at the top level for the first round. And all these criteria are set out in the final report - issue report.

The issue report also provides a summary of the work to date up until late September when the report was being drafted in its final stages in terms of

previous work. So for those of you interested in historical perspective in terms of the work on the IOC/Red Cross names as well as previous work on IGO names.

The report also briefly notes and summarizes the currently available or protections that were designed to be incorporated with the new gTLDs, both at the top level and the second level. Top level including of course the independent objection, the legal rights objection that IGOs could utilize, again, using the criteria for registration of a .INT name.

And then the post delegation dispute resolution procedures or the PDP RP. At the second level the report notes the trademark clearinghouse in the URS, of course, those being subject to community discussion at this time.

So that's a brief outline of what the report covers and happy to take any questions.

Thomas Rickert: Thank you very much, Brian. Are there any questions for Brian? Brian, actually - I have a question for you. In the report you are incorporating some legal analysis. Is that the same legal analysis that has been used by the Board for its rationale that was previously redacted?

Brian Peck: Yes, it does include - let me - a couple things to clarify. One is there's no new legal analysis in this report. It only reports legal analysis that has already been provided, either as you mention, your particular example. It does include the unredacted legal analysis that was conducted prior to the Board's resolution in Singapore by outside counsel.

And that includes the language from or the - you know, the analysis or summary of that analysis from that position paper.

And then, of course, it includes some of the legal arguments being put forth by the respective organizations and their positions on their - you know, for

example, treaty protection or protection by domestic laws in multiple jurisdictions.

But the report itself does not include any new legal analysis, it just reports what has been submitted by various parties or, you know, historically in this process.

Thomas Rickert: Thank you. Are there any questions for Brian? Hearing none I would like to move on to the sixth agenda item.

So Berry, if you could bring up the latest version of the request for input document on to the screen? I have to admit that in the last 60 to 90 minutes to prior this call there was so much information flooding into the mailing list that it was hard to keep track with that.

But let me kick this off by asking you whether you have any comments on the latest version that was circulated on the list. I have David, please. David, you might be on mute.

David Maher: Yes, I'm off mute now. Yes, I object to this new version. I support the version that was circulated earlier by Berry. The charter and the mission statement very clearly define INGOs and this is an attempt to do an add and run around that definition and expand it substantially, which I don't think is appropriate under our charter or our mission statement. Thanks.

Thomas Rickert: Thank you. So you're objecting to the edits that have been made by Stephan?

David Maher: I believe they were made by (Greg).

Thomas Rickert: By (Greg).

David Maher: I believe this was circulated within the past hour by (Greg).

Thomas Rickert: So Berry, this is going to be a little bit of a challenge for you. So maybe you can dig out the last but one version while I ask (Greg) to respond. (Greg), please.

Greg Shatan: Well, first off, it's not intended to be an end run. And as I said in my comments, if we need to go back and talk about amending the charter we can do so.

But I think that - you know, I have yet to hear an adequate explanation other than it's in the charter about why the, you know, specific language about, you know, treaty protection and, you know, multinational legal statutory protection, you know, is, you know - creates an appropriate, you know, substantive distinction.

And as I also said in my comments, there may be instances where there are multi - you know, laws in many countries but there's no treaty or visa versa.

There's - you know, conceivably no international law expert or much less treaty law expert but instances where, you know, treaties are adopted and become effective at the national level without national enabling legislation.

So I think that those - you know, may be procedural distinctions. And I'm not saying, by the way, that there are organizations that lack, you know, protection in, you know, more than one jurisdiction, you know, should somehow be shoehorned into this, you know, where there are, you know, purely domestic organizations that have no protection outside of a single jurisdiction.

I think while it may be open for debate I'm not - that's not my point as to whether those should be included but rather - whether we've created kind of a distinction without a difference or maybe a one-legged red-haired man without a limp - with a limp kind of distinction that, you know, serves to

perhaps bring certain organizations into the fold and leave others out without any real substantive difference in either the missions or underpinnings of those organizations or the ultimate kind of legal protections for them.

I think to a great extent they are a residual holdover from the IOC/RCRC definition which, you know, at least arguably embrace those two organizations while perhaps leaving out other equally worthy IGOs and INGOs. But I think without doing a survey of how IGO and INGO names are protected it's a little difficult to know whether there's - you know, there organizations that are being left out but I get the sense that there may be those that are.

And, you know, depending upon kind of treaty protection per say as being, you know, a necessary prong as opposed to other ways of establishing, you know, broad multinational or even not necessarily broad multinational protection, you know, doesn't necessarily serve to us to get to the ultimate question of, you know, whether we are - you know, why - what sort of protections we should give to IGOs and INGOs that have international or intergovernmental aspects to their name, to their organization, to their mission, to protection of their name. Thank you.

Thomas Rickert: (Greg), let me ask you a follow up question that I'm reading from the chat. Jeff Neuman has asked whether you have some examples for that.

Greg Shatan: Well, you know, one example I can think of is an organization that has - I know is protected by statute in a number of - or rather a federation of organizations is protected by statutes in a number of countries is the Big Brothers/Big Sisters organization, you know, which provides one on one mentor relationships for at risk children.

They're in a number of different countries and I know that there are statutes that protect them in those countries but there's - as far as I know, no treaty

unless it falls under some sort of broad generic treaty for nongovernmental organizations that would protect the Big Brothers/Big Sisters nomenclature.

Thomas Rickert: Okay, thank you very much, (Greg). I have Chuck next.

Chuck Gomes: I have just a suggestion, Thomas, on David's statement. Rather than just, you know, saying that none of the edits are okay and maybe that's what we end up but there really aren't that many edits. There are a lot of comments but there really aren't that many edits in the document.

I think it'd be better to take this thing paragraph by paragraph and see whether there's anybody that objects to the edits. And I think we have - do a much more comprehensive job of getting to the end goal of a document we can use.

Thomas Rickert: That's very helpful, Chuck. Nonetheless I wanted to give (Greg) and David, you know, the opportunity to explain what their positions are before we jump into - dive into that.

(Greg), is your hand still up or up again?

Greg Shatan: That's a residual hand.

Thomas Rickert: Okay, I have David next, please.

David Maher: Well, in response to (Greg), if you look at the left-hand side of the screen you'll see the GNSO resolution which refers to international nongovernmental organizations receiving protections under treaties and statutes under multiple jurisdictions, and specifically and so on.

(Greg) is free to make proposals to expand the charter, go outside the charter, or start all over again. But I think we have to recognize that that's what this proposal is all about. And I object to that.

And I think most of the people on the working group would understand that changing the charter, changing the task set forth by the GNSO resolution is not appropriate.

I also - I agree with Chuck that we would have to consider the edits one by one. Unfortunately this latest proposal was put out so recently I haven't had a chance to review all the other changes. This is the first one, the first text paragraph is the one that caught my attention.

Thomas Rickert: Okay, I have (Greg) again.

Greg Shatan: Once again I would still love to hear an explanation substantively of why this is a good demarcation. And as I said, you know, if we need to reopen - if we need to propose a modification to the charter in order to remove or to edit that distinction, you know, I will propose that.

On the other hand, if we - if there's a substantive explanation of why this is a good distinction of why IGOs and INGOs that don't meet that distinction should be left out of this process, you know, that's - that would go a long way with me to resolving my concerns.

So far I think it's a - you know, probably a petty distinction but one that could serve to, you know, limit the organizations that would be effected by this, you know, perhaps substantially. Thank you.

Thomas Rickert: Okay, I have David and then Chuck and after that we go through the document one by one.

David Maher: Well, the answer to that question is the question ultimately of how many organizations are to be protected. There's been a consistent effort throughout the proceedings going back to Chuck Gomes reserved names working group to decide how many names should be protected.

If you would accept (Greg)'s proposal this opens up who the protection - possible reserve name list of thousands and thousands of names. And I think almost everyone who's looked at this understands that that is not practical. That's why the GAC for example has proposed initially at least to protect only the names that are qualified for .INT. Thanks.

Thomas Rickert: Thanks, David. Chuck?

Chuck Gomes: Just a quick practical suggestion, I think we should separate the issue of a possible charter change that (Greg) is suggesting from the completion of this survey.

If we find - if it's changed and we need information later we could always go out later asking for additional information. But I think it's time sensitive and important for us to get a document out for the SOs and constituencies and SGs to respond to as quickly as possible.

So I would suggest we finalize this. If (Greg) would like and there's support for changing the charter we can deal with that separately.

Thomas Rickert: That's very helpful, yes. So I would like to ask you to take a look at the second paragraph of the document, the GNSO Council, and ask you for an - whether you request any edits to that.

Greg Shatan: Thomas, could I just respond to what Chuck said there?

Thomas Rickert: Please.

Greg Shatan: This is (Greg). I appreciate the comment and I think that perhaps rather than striking out the language that I struck out, another approach would be to ask for input from these organizations as to whether they believe that the distinction that would include only organizations that have - receive

protections under treaties and statutes under multiple jurisdictions is appropriate.

Chuck Gomes: I - this is Chuck. David, would you be okay with that modification?

David Maher: No.

Chuck Gomes: Okay.

Thomas Rickert: Is there - can I just see a show of hands of those in the group - you know, you can do that in the Adobe, who's in support of leaving (Greg)'s edit in? David says no. You know, just - this is not a formal vote but, you know, just to...

Robin Gross: This is (Robin). I'm not in the Adobe. Can I vote orally?

Thomas Rickert: Yes, please do.

Robin Gross: Okay, I support David.

Thomas Rickert: Thank you. All right, give it a few more seconds. So from what I can see, (Greg), there is not that much support for the edit.

I guess the majority - I see two votes in favor and the others would not like to see that added - edit to be in the document. And therefore I'd like to ask Berry to take it out of the document as it stands.

Okay, so next paragraph has no edits in there.

Berry Cobb: Thomas, this is Berry. Just real quick so that the working group understands what version we're at, the version you see before you is essentially Version 4 that was sent out to the list several days ago, I can't remember when I sent it.

The only difference between that version and what you see before you today is (Claudia) has submitted some - a couple of comments but she didn't make any edits to the document itself. So that's essentially the only difference from Version 4.

Thomas Rickert: Thank you, that's very helpful. Let's go through the document and find the next edit, which is the first bullet point below all the elements and then you have quantifying the entities who's names should be considered for special protections.

For those who object that edit please speak up. You don't have to raise your hand in the Adobe.

Robin Gross: This is (Robin). I object to the edit.

Thomas Rickert: Okay then, let's do the same thing as we did with the last edit. So ask you to use the Adobe to give an indication of whether you want it to be in there or not.

Chuck Gomes: Thomas, this is Chuck, I'm not sure your question is clear in terms of what we're agreeing or disagreeing to.

Thomas Rickert: I have asked the participants of the call to indicate whether they would like this edit who's names hold - to remain in the document or whether the edit should go out of the document and the original version to be reinstated. So if you say no then the edit is going to be taken out of the document.

Chuck Gomes: Thanks.

Alan Greenberg: Thomas, it's Alan. Could some of the lawyers on this call explain to those of us who aren't what the subtle differences - difference is between the two? I mean I understand the overall meaning but I suspect there is something deeper that I'm not getting here.

Thomas Rickert: Is there anybody volunteering to give that explanation?

David Maher: David, I'll volunteer. It's the use of the word should.

Thomas Rickert: Maybe those who are not familiar with US law you can elaborate on that a little bit more?

David Maher: Well, the use of the word should in this instance implies that there is some obligation to consider as opposed to simple statement that they may be considered. It's a very subtle distinction I admit but I agree with (Robin) that it's inappropriate for the - for this document.

Thomas Rickert: Okay, so with this additional information is there anybody who wants to change his or her view or add?

Chuck Gomes: Thomas, this is Chuck. What if we changed the word should to might?

Thomas Rickert: David?

Greg Shatan: Or may.

Chuck Gomes: Or may, yes, sure.

Thomas Rickert: Okay, let's stick to may then. David, since you've given the explanation would you have any legal concerns with may?

David Maher: That - I would not object to that.

Thomas Rickert: Okay, so (Greg) is next.

Greg Shatan: That was my first (unintelligible) but also I think we were also talking about the difference between names and entities.

And I think that there is a distinction at least in terms of their Red Cross/Red Crescent in that the protection stems in part from the Geneva Convention, which actually protects the sting - you know, the Red Cross name or, you know, string independent of the existence of organizations that use it.

That may be a distinction that applies only to the Red Cross situation but I think that's why that edit was made by them. And I don't think it's a really - that important of a distinction personally but I mean we are in a - talking about names or strings.

So whether you're talking about the entity or the string I guess the idea is not to limit it to those strings that are only protected as - you know, kind of the property if you will of particular entities, you know, because treaties may look at them differently.

Thomas Rickert: So the alternative language that you would propose is?

Greg Shatan: I would just stick with who's name may - I think that's fine.

Thomas Rickert: Okay. So I have Alan next?

Alan Greenberg: Yes, when I raised the original question I was really referring not to the should/may but to the addition of who's names. And I think (Greg)'s - (Greg) had just addressed that now so I think I understand.

Thomas Rickert: Okay, so (Christopher) is next.

Christopher Rassi): I think (Greg) said what I wanted to say. It was just - you're right, this is a specific - well, it was made by the Red Cross team and our explanation is right there in the comment box. But this was because there is no organization called Red Cross alone, it's referring to a designation and not necessarily a name of an organization.

Thomas Rickert: Thank you. Berry, would you be as kind as to do the edit live and change the wording to may. And then I would like to see a show of hands of those who object to that wording, who's names may be considered.

Berry Cobb: This is Berry. The real time edits for this will be a little complicated. I am making those changes in the background. And every little bit I can re-PDF and show it back up.

Thomas Rickert: Okay, that's helpful, thank you. So I see no objections so let's move to the next item, please, which is the next bullet point, evaluating the scope of existing protections under international treaties, laws for the organizations concerned.

Any objections to that please give me a show of hands in the Adobe? Elizabeth, I'm not sure whether your hand or whether your vote is still on from the last point or whether that's new. Thank you.

So no objections to that I take. Next point is establishing qualification criteria for special protection of - and then IGO and INGO is deleted. Names it just says of organizations concerned. Any objection to that? Seeing none - if I'm too quick you can jump in at a later state but I think we need to make some time here.

Distinguish...

Berry Cobb: Sorry, Thomas, this is Berry. Just real quick, I did make a mistake in my statement earlier from (Claudia)'s suggestions. She did state in the chat that she had updated from changes that would - instead of just organization that they were international organizations just to qualify the word organizations.

Is there any concern from the working group for including those?

Thomas Rickert: So if there are any objections please let us know.

Chuck Gomes: By the way, this is Chuck, one of the central purposes of the PDP work was that we focus on international so that - I think that's consistent with what the GNSO produced.

Thomas Rickert: Okay, now I see a signal next to (Claudia). (Claudia), would you like to speak? No, okay, so...

Claudia MacMaster Tamarit: Hello?

Thomas Rickert: Who's that? (Claudia)?

Claudia MacMaster Tamarit: Yes, sorry. I'm having difficulties with the technical aspects of this. Yes, no, I just wanted to clarify, yes, actually the edit had been from in the first question from entities to international organizations just to make sure that we wouldn't from the start bias any sort of a response and keep the focus on international organizations, which I think we are trying to do here.

Thomas Rickert: Okay, thank you. And I have not heard any objection to that so this edit is going to be kept in the document by Berry.

So - and then the last bullet point, distinguishing any substantive differences, any objections to that edit? Hearing none...

Robin Gross: This is (Robin). I...

Thomas Rickert: Hello, (Robin), please.

Robin Gross: Yes, the part that I - that concerns me is the part about including taking into account any distinctive grounds substantiating their protections. That seems to be a bit one-sided. So if we're going to take into account distinctive grounds substantiating their protections it seems like we should also look at it

from the other perspective as well and also taking into account some analysis that doesn't substantiate protections.

Thomas Rickert: Thanks, (Robin).

Robin Gross: So I would just say have none of it there but if we have to have something it seem to be more even handed.

Thomas Rickert: Since I have - the aim which hopefully all of you will share that we take a 360 degree look at the issues, we would look at all the pros and cons. So let me suggest that we delete what's in the brackets and just ask whether there is any opposition to deleting what's in the brackets.

Okay, none. And then the next paragraph we have levels. Level - I think that's a minor modification.

And since there haven't been no objections for the last points let me hear your views for the next four bullet points in total. So if you have any concerns with the edits in the next four bullet points let me know. Give it another ten seconds for you to run through it.

Okay, so let's move on to the questions to consider. The first question has been modified to add in all gTLDs and then in brackets, existing and new.

David Heasley: This is (David).

Thomas Rickert: (David), please.

David Heasley: Sorry, the Bullet Point 2 under questions to consider, I object to striking out INGOs and replacing it with and other organizations. It's the same issue as on our first paragraph. The scope of this working group is IGOs and INGOs as that term is defined.

Thomas Rickert: Okay, so since that is consistent with the point that we had previously asked for (unintelligible) unless I hear any opposition we do this edit as requested by (David).

                  Okay, any objection to the edit in Question 1? Then there's another edit in Question 2. Any objection to that edit?

David Heasley: That's the one I was speaking of.

Berry Cobb: Yes, and this is Berry. I'm sorry to be difficult here. Am I supposed to remove the IGO/INGO? I wasn't clear on your statement, (David), I'm sorry.

David Heasley: No, it was just to go back to IGO and - IGOs and INGOs and take out the other edit and other organizations.

Thomas Rickert: That would apply for the first bullet point?

David Heasley: No, the second and third.

Thomas Rickert: Also in the first bullet point in the section above. And then it's in the second question and in the third question.

David Heasley: Right.

Thomas Rickert: So we're going to have that tweaked by...

Berry Cobb: This is Berry. I guess that's kind of a contradiction to including international organizations back at the top. So we're - if I understand this correctly either we all agree that it's IGOs and INGOs and not international organizations or the counter is that we include - when we make the statement that it's IGOs, INGOs, and other international organizations.

And I believe, (David), you just want IGOs and INGOs but there is the opposite that wants other international organizations. Is that correct?

David Heasley: I'm sorry. I'm proposing that we stick with the GNSO resolution language which is IGOs and INGOs receiving protection and so on. And then once that's defined we can just refer throughout to IGOs and INGOs.

Berry Cobb: Okay, I think I understand.

Thomas Rickert: And since we have dealt with that earlier on I think in order to make the document consistent, Berry, you can change the points in the document below.

I have (Christopher) next.

Christopher Rassi: Yes, I think we proposed the change international organizations. The reason is stated in our first comment box. It's to incorporate our organizations as well, which are also part of the PDP.

INGO and IGO would not necessarily incorporate the international committee, the Red Cross and the federation, which have different legal status whereas international organizations was seen as broader to incorporate all. I imagine we're supposed to be included in this as well, that's why we made the comment.

Thomas Rickert: Okay, Alan, please.

Alan Greenberg: My recollection is the issue report specifically defined INGO as referring to the IOC and Red Cross movement and possibly others but specifically includes them regardless of whether it is semantically a good and accurate description of it.

Thomas Rickert: Okay, (Christopher), is that good enough of an explanation for you?

Christopher Rassi: If we're included that's fine. I just - we're just trying to make a legally correct point.

Thomas Rickert: Great, (David)?

David Heasley: I agree with that.

Thomas Rickert: Okay, so Berry, we're going to change the language to the language of the GNSO resolution, IGOs and INGOs.

Berry Cobb: Got it, I - I'll make the action after we complete the other edits to make sure that's consistent throughout the document.

Thomas Rickert: Okay, great. So I - if I'm not mistaken that applies to all questions until Question 4 and then there is another - an additional question which is Question 5, should appropriate special protections at the top and second level for the names and acronyms of - and then it should read qualifying IGOs and INGOs be made.

                  Any objection to that inclusion? Hearing none, is that (David)? (David), did you want to speak?

David Heasley: Yes, I object to the edit. I think it should go back to qualifying IGOs and INGOs.

Thomas Rickert: Yes, that's going to take place anyway. So we're going to make that edit through the document. The question is whether we object to Question 5 with the original language of IGOs and INGOs.

David Heasley: No, that's okay.

Thomas Rickert: Okay, great. So Question 6, I think that's just a semantic change. Question 7, any objections to Question - the edits in Question 7? Hearing no objections - I have (David). (David), please?

David Heasley: I don't have any objections. I just have a question with respect to Question 3 above. In particular, is there any reason why we are excluding from this question the issue of designations and acronyms and limiting it only to names?

Thomas Rickert: Is there anybody wanting to answer that question? I think it goes without saying - (Greg), please.

Greg Shatan: (Unintelligible) to answer the question I would kind of just second the question in hopes of saying that, you know, the name of UNESCO, which is not in essence its name, for instance, you know, just as a random example, would be considered a name for the purposes of this PDP and wouldn't have to be the United Nations Economic Social Cultural Organization, which is a mouthful in order to be considered.

I don't know if we need to clarify that somewhere here that names include acronyms that serve the function of names or the like but, again, I hope this is not one of those instances where we're trying to draw an arbitrary line just to make sure a lot of people fall outside of it. Thanks.

David Heasley: This is (David) again. I would maybe add to that then that given that the scope of the group's work is to consider protection applicable for names, designations, and acronyms and that we're using this Question 3 to elicit views on that point that we also make express the question relates to names, designations, and acronyms.

Because otherwise we're limiting the expression of views under this question to solid issue of names. And of course, names are going to be a pretty limited

relevance in a domain name context. It's principally going to be about the acronyms to many of these organizations.

So I would propose that amendment that we include in addition to names, designations and acronyms consistent with the introduction.

Thomas Rickert: Names, designations, and acronyms. Okay, I have (Greg), you're next. Or is your hand still up?

Greg Shatan: (Unintelligible) that probably could be a global change and maybe we can even have names with a capital N be a defined term that includes designations and acronyms.

Because I don't think there's a point at which we - any point in this effort we would exclude designations and acronyms, especially since - you know, as was just stated, they more often serve, you know, the practical function of name as opposed to the, you know, kind of legal name that organizations may go by. Thank you.

Thomas Rickert: Thanks. I have David next.

David Maher: I agree with that.

Thomas Rickert: Great. Alan?

Alan Greenberg: Yes, I was going to suggest something similar because, you know, the discussion we had much earlier where we added the terms who's names, we really meant, you know, all of the above.

So we really need to define something whether it's names or some other word to refer to the (unintelligible) associated with, you know, the organizations, you know, and then use whatever term we define throughout the document.

Thomas Rickert: So the proposal on the table is to have a definition of the term names and use names for names, designations, and acronyms so that we have a consistent use of that.

David Maher: Musical interlude.

Thomas Rickert: The question is whether there is any objection to that overall change? And if so please make yourself heard or show the block in the Adobe. (David), is your hand still up or up again?

David Heasley: This is (David). It's an excellent suggestion in my view. I just have a further suggestion which is a term that could be considered for us in defining the names, designations, and acronyms of the organizations could be - for example, identifiers.

Thomas Rickert: So we have an updated proposal now which is definition of the term identifiers and the term identifier is defined as names, designations, and acronyms. Any objection to that?

David Heasley: I would say all in place of and.

Thomas Rickert: That's a further edit, names, designations, or acronyms. And if there's no objection to that I'll ask Berry to make that change in the document.

So unless there are any objections to the edits in Question 7 we can now move to Question - the previously deleted Question 7, should appropriate special protections for names and acronyms of all other qualifying international organizations be made as well?

I understand that since we have moved back to the original language that this deletion should stay. So unless I - somebody speaks up asking to reinstate that language we leave that out.

And that means that we are through with the document. So any further questions or requests for edits for this document? Otherwise, Berry is going to make the edits and send it to the list.

And can I have a show of hands or - no, we'll just do the checks, please speak up if you object to this document. Otherwise Berry is going to send it to the list and giving the group a little bit of time to look at it and submit remarks or objections. And in the absence of those we will send out the document.

Robin Gross: This is (Robin). Can I get in the queue, please?

Thomas Rickert: Sure, please go ahead, (Robin).

Robin Gross: Yes, I thought it would be helpful if we added to the questions to consider section, just sort of a simple overarching question of does your group believe that the existing RPMs are sufficient or adequate to meet these needs.

Because it seems like a lot of our questions in this section are really delving down into the details and take for granted that the group has found - or the constituency stakeholder group does believe these things.

So I think we need to have an overarching question in there as well that asks if the group's view is that the existing protections are adequate.

Thomas Rickert: So you've heard the proposed question to be added to the questionnaire. Are there any objections to adding that question?

Greg Shatan: This is (Greg). I object.

Thomas Rickert: (Greg), please.

Greg Shatan: I object. I think that, you know, we need - if we're going to do that we need then to kind of list and enumerate the existing RPMs and also, you know, highlight the fact that those that are trademark based may exclude international and INGOs who's names don't constitute trademarks under those.

So I think if we're going to get - if we want to get down in the weeds on that we should.

But I would think that a lot of people who don't educate themselves on this particular point probably don't realize that the UDRP at least, you know, excludes organizations who's protections don't come through trademark registrations per say, you know, such as for instance - just again to go back to UNESCO who's name shows up on the patent and trademark office register but only because it's protected under the Paris Convention relating to IGO names and not because of the trademark.

So I think it's a trap for the unwary. Thank you.

Thomas Rickert: Chuck?

Chuck Gomes: Let David go, Thomas, because I think mine's not on (Robin)'s suggestion.

Thomas Rickert: David, please.

David Maher: Thanks, yes. I agree with (Greg). I would object to the inclusion of the question. I don't think that we need to ask it in those terms without also going into all of the points which (Greg) has just enumerated.

I also think that it - you know, in a way it also prejudges the process because the fact that we're having this PDP in the first place I think leaves open that question of adequacy.

And if we would put a question in this way and in this fashion it may lead people in a way to prejudge the results of these deliberations. So for those reasons I would also be in favor of not including that additional question.

Thomas Rickert: Thank you, David. I have (Karen) next.

Kiran Malancharuvil: Hi, this is (Kiran). We would also object to the inclusion of that language. We agree with both David and (Greg)'s objections and would also like to add that in this context in going out for stakeholder group input the - there's an enormous amount of work done - from each organization in demonstrating how the RPMs are inadequate to deal with the issues that we face.

And it would require enormous amount of representation, reeducation of these groups in order for them to address that question in an informed way. So we would object to the inclusion of that, thank you.

Thomas Rickert: Thank you, (Kiran). Alan?

Alan Greenberg: Yes, thank you. I find some of these comments curious. We're asking for input on a rather complex subject and we're asking some specifically very complex questions. But we seem to be afraid to ask the general question.

And if indeed we need to talk about the kind of things that (Karen) just mentioned of what protections are valid and not valid for the groups we're looking at, maybe that's something we need to put in a preamble.

But I don't see any reason to not ask a general question for fear that people don't understand when we're then going and asking far more detailed ones, which if they don't understand the general one they're really not going to understand these.

So we seem to have a, you know, split personality in terms of how much we trust the people who we're asking the questions to.

Kiran Malancharuvil: Alan, sorry, this is (Kiran). Maybe I can just clarify by stating that we don't necessarily object to this group going over the information that we've already presented and understanding that.

We just think that that should be limited to the people that are dedicated on the working group to fully exploring this issue rather than it being a general question going out to a general and not as invested and educated group on the issue.

Alan Greenberg: I think that goes against the ICANN process of asking - soliciting input from the whole community and not just people on a working group.

Robin Gross: This is (Robin). Can I get in the queue?

Thomas Rickert: Yes. I have (Greg) first and then it's your turn, (Robin).

Greg Shatan: I was just going to say that I think - you know, to the extent that - I think Question 5 kind of teases out, you know, largely the same issue of whether, you know, additional protections are needed or appropriate. So I don't think we need to ask the question twice in a sense.

Thomas Rickert: (Robin), please.

Robin Gross: Yes, I'm concerned that - you know, the responses that - of well, you know, people if they say there are inadequate protections it's because they don't understand and they need to be educated. And I think that this group needs to leave some possibility open for constituencies who have heard these arguments and find them unpersuasive frankly.

So I think that - I think that that question is relevant and I think - you know, we can't take for granted that the right conclusion, the informed conclusion is that these protections aren't necessary. I think we need to give some space for

those who have looked at it and still nonetheless feel the protections are adequate.

Thomas Rickert: Thank you, (Robin). Chuck, is your hand still up for a new point? Or have you gotten in the queue to respond to this?

Chuck Gomes: Well, no I haven't but let me just say it's a simple point. Whatever we end up with here I suggest you give a timeline - a deadline for people to respond so that it doesn't drag on and we can get this thing out. I would suggest by the end of the week if nobody objects to that.

Thomas Rickert: Sure, but I think we have one objection on the table now and if we can resolve this in the next two or three minutes I would be all for it. (Robin), maybe as a compromise we heard that your question might be included in the Question 5.

So would the group object to adding some words to Question 5 so that it reads should appropriate special protections at the top and second level for the names and acronyms - that the identifiers of IGOs and INGOs be made and then in brackets, i.e. existing or new or modified RPMs, if any.

It's my understanding is that you wanted to put the idea to the reader's head. I have (Greg).

Greg Shatan: I just wanted to say I don't think the way that's formulated, you know, works. Probably doesn't work necessarily for (Robin) either but I will let her speak for herself. But I think it's not an i.e. It may be an e.g. but I think, you know, what's before the - you know, potentially before us as appropriate special protections are not limited to new or existing or enhanced RPMs but to, you know, other methodologies as well.

So I don't think the question, you know, should be limited by an i.e. Thank you.

Thomas Rickert: Would you be happy with an e.g. then?

Greg Shatan: I think an e.g. would work.

Berry Cobb: This is Berry. I published a starter draft in the chat labeled 8.

Thomas Rickert: Okay, let's hear David first, David Maher that is.

David Maher: Yes, I think that Question 8 is worth asking. I think it would be well understood by the existing stakeholder groups, constituencies, and so on that it doesn't need further explanation.

And I don't think that i.e. or e.g. works. I believe Berry's proposal although we don't need to say adequate enough, I think just adequate to offer protection would be the preferred wording.

Thomas Rickert: Okay, so the proposal on the table is to include Question 8. I have (David) next.

David Heasley: Thanks, with respect to either to the proposed inclusion of the e.g. or David's subsequent comment, I think we would need to have some language in there which indicated adequacy or otherwise of existing RPMs, which would also mirror the if/any language that we are now envisioning proposing for any new special protection. Thanks.

Thomas Rickert: (Greg)?

Greg Shatan: I was just going to say that I think if we are going to include this I think we need to include in the question or - you know, somewhere in this document, you know, specific understanding that many IGOs and INGOs do not qualify either for UDRP or for - I believe, the trademark clearinghouse as well, although I'd have to double check that.

So I think if we're going to talk about the existing RPMs we need to talk about the existing RPMs that are available to IGOs and INGOs, not the existing RPMs per say.

I just think that whatever the questions asked we have to be - you know, really clear about that point that - you know, one of the issues - and frankly, underlying all of this is the issue that the - you know, not all of the RPMs that exist for brand owners exist for IGOs and INGOs.

And that we need - you know, I think that needs to be part of the essential understanding as people looked at this question, thank you.

Thomas Rickert: David? David, are you on mute?

David Maher: Yes, I wouldn't object to a rewording along the lines that (Greg) suggested to make it - just to make it more clearer. I think most of the people who will answer this - of the groups that will answer this document are well aware of what (Greg) has said. But saying it clearly is fine by me.

Thomas Rickert: Thank you, David. I propose that Berry puts language into the draft to be circulated to the group unless I hear opposition to that inclusion at all. But if you are willing to consider this additional question then we should put it in there.

David, is your hand up again?

David Maher: Yes, I like that latest version that Berry put up.

Thomas Rickert: Alan?

Alan Greenberg: Yes, thank you. I - my only problem with the version Berry put up is the word accommodate right at the end. You know, what we're really saying is it may not be applicable for them, may not accommodate them. I think the word is...

David Maher: I agree.

Alan Greenberg: A little bit vague.

Thomas Rickert: Okay, so with the modification may not be applicable...

Alan Greenberg: Or they may not be eligible for or some words like that. If you invert the sentence with the understanding that some IGOs and NGOs may not be eligible for UDRP and trademark clearinghouse.

Thomas Rickert: Yes, it's up in the chat now.

Alan Greenberg: That makes it clear I think. Yes, that's good.

Thomas Rickert: Unless I hear opposition to that now we put that into the document and I would consider that document to be - you know, unobjected by this group. So we put it out for comment on the mailing list for a couple of days response time for you.

Thank you for that. Alan, is your hand up again or...

Alan Greenberg: No, no, sorry. That's a residual hand as someone said.

Thomas Rickert: Great, now let's go to Item 7, which is to continue the exploration of issues defined in the charter, and to review the proposed work effort straw man. Now first of all, let me thank you for all your contributions.

I think that those have been most helpful, however, I doubt that the whole group did have the time to fully digest everything that has been submitted,

particularly the documents that have been submitted very, very shortly before this call.

What I found very encouraging is that the discussion that took place on the mailing list has pretty much focused or tried to focus on objective criteria. So before we go into the straw man document and try to refine that I'd like to ask you whether you agree to some principles that we might apply in looking at criteria.

I have now put something into the chat so - to me - at least that's my understanding reading the discussion that took place on the mailing list. We might want to check the criteria brought up by the various parties and check them against these questions.

You know, so to me the question is what should criteria look like? I think they should be objective, that's what a lot of you wrote on the list. They should be globally applicable. They should be easily and unambiguously verified so that it should be something where no subjectivity or no big efforts need to be made to verify whether a criterion is present or not.

And they should address what is special for the potential beneficiaries. And what I mean by that and that's the only point that I'd bother to explain, that we're looking for factors that apply to - factors that apply to all rights holders do not help a lot in trying to make a distinction, you know, whatever the distinction ultimately might be.

So if that's something that you could live with as a test for the criteria that we're discussing because then I would try to come up - or, you know, go through the documents that you submitted and try to amalgamate that into a document where we can discuss the pros and cons.

Can I hear any views on that? David, please.

David Maher: Well, I'm not entirely sure why we would be talking about criteria at this point. I still believe that there is a lot of work to be done before we get to criteria.

The questions that are being asked in the other document, which was up until a couple of seconds ago, I believe are the first ones that - it's the first work project that we need to cover. And talking about criteria is premature at this point.

Thomas Rickert: But I guess, David, my point is that even making a distinction whether we want to move on discussing protections or not we need some factors, criteria, features, whatever you might call them, to base our decision on. But I leave - I open the floor to Alan.

Alan Greenberg: Yes, I don't feel comfortable coming up with these global descriptions because - I almost feel that they're going to exclude what might be viable outcomes. And, you know, I can see having criteria which are not unambiguous but one comes up with a methodology for determining the outcome.

You know, so I think the world may not be as simple as we're hoping it is and we cannot necessarily provide numerical metrics for everything. So I would not want to exclude innovative answers to the thorny problems we're looking at because I think that's the only way we're going to get through this and reach something resembling at least a partial consensus.

The views are so diverse that I think we need - we're going to need flexibility and I wouldn't want to rule out possible solutions because they're going to - because they may be difficult in some cases to implement. I think some of them may be difficult to implement.

Thomas Rickert: Okay, don't get me wrong, this is just a starting point. So it's not an exhaustive list but I think that, you know, some factors are more suited to help the group make a determination than others.

To give you an example, if we're talking about cost, you know, that has been mentioned, cost organizations. Costs are there for everyone that might be affected by an infringing registration, right. So that is not something that is unique for this scenario or justifying a special treatment.

While - if you look at the source of where the money's coming from we read that it's donor's money or taxpayer's money and that might be a factor that is special to the organizations in question rather than other rights holders.

You know, not trying to say that this is the - this should be - is or should be the outcome but just to give you an idea as to what factors we should be looking at more than at others or weighing different than others.

Alan Greenberg: And Thomas, let me restate what I said another way. I think these are fine guidelines and issues to consider when looking at criteria. It shouldn't be the criteria for the criteria though.

Thomas Rickert: Yes, and I agree. It should be open, a non-exhaustive list of factors. (Claudia), please.

Claudia MacMaster Tamarit: Hi, Thomas. I would have to say that I very much agree that we do need to be looking at criteria that they do need to be objective and globally applicable. And on that point, I think a fundamental point that we need to address and to clarify is this question that I've had in the chat a bit with (Greg) already.

And that is the question of whether the and in the GNSO resolution, that we're talking about INGOs receiving protections under treaties and statutes under multiple jurisdictions is an and that is a conjunctive and.

Because if we're talking about INGOs that are receiving protections under treaties and - and they must receive both, then we're really, really limiting the

discussions quite a bit. We might as well just say, IGOs plus, you know, perhaps the Red Cross and the IOC and then that's it.

And so I think that it's a fundamental question for us to address. This definition of and - and perhaps what we need to do is to look at it as an and that says both and that way we can look at it as a reasonable basis for our definitions of INGOs and IGOs.

Thomas Rickert: Thank you, (Claudia). That's a point that we bear in mind when continuing our discussion. Chuck, please.

Chuck Gomes: Sure, and Alan hit at this a little bit I think in his last comment, but the four criteria that Thomas listed I think are criteria for the ultimate criteria that we will develop.

And I think if we look at them that way - sorry for the poor wording, but they're not our ultimate criteria. And so I agree with David that we - we're not there yet to look at the ultimate criteria for qualification if we go that route.

But they are to me very good principles that we will use to measure whether or not the ultimate criteria we develop fit. So it's - I'm having trouble with terminology but I have no problem with those four factors. Maybe that's what - these are factors that will apply to the ultimate list of criteria that we develop if we do that.

Thomas Rickert: Maybe if I can respond to that, Chuck, the idea when coming up with these questions was to help us structure the vast amount of documents and ideas that have been floating, both in our last discussion as well as in the documents.

So in order to be able to structure our discussion better I thought it might be worthwhile helping the group determining what factors or what facts actually they are looking for as a basis for their decision.

I have David next.

David Maher: Yes, I have a specific objection on the document that we're looking at. It says, draft objective criteria for inclusion of international organizations for protection, paren reserved list, closed paren. That assumes that the special protection is a reserved list. And I don't agree with that at all.

The question of putting anything on a reserved list is a specific and very controversial issue for this group. If we do decide to pursue this list of criteria I think it should say, for special protection and strike the words reserved list.

Thomas Rickert: David, for your information, this has been a copy and paste from a document or from a comment from (Claudia). And it hasn't been edited by Berry.

So understand that you have made the point on the list that - you know, and you were in agreement with some other participants of the group that there shouldn't be - or that that reserved names list shouldn't be the solution. So your point is well taken.

(Greg)?

David Maher: Thanks.

Thomas Rickert: (Greg), please.

Greg Shatan: Sorry, I was just going to follow up on what (Claudia) said and say that, you know, that's, you know, really the root of my concern is that by - in taking oddly restrictor of criteria we are, you know, eliminating what could be a very large portion of the INGO world unless - and unless that's the stated intention of this group I think we need to consider either how we're going to read that and or change the charter.

Because I don't think the intention is to just, you know, cut down the number of organizations we're considering arbitrarily. Thank you.

Thomas Rickert: Thanks, (Greg). I heard another voice. Is there somebody that wants to speak up? No, so maybe just a microphone was not on mute.

Now Berry has put up on the Adobe the updated straw man although I have to say I don't like the word too much as it's used in different places in ICANN at the moment. So it shouldn't be confused with the straw man solution for the trademark clearinghouse obviously. But are there any comments to this latest version?

And while you think of comments or questions let me remind you that this set of questions or work packages as I should rather call them, I had originally drafted in order to facilitate our work.

And what has gone more or less unnoticed is that, you know, there's a section at the beginning that has now been deleted where I have tried at least to make very clear to the group that these - that if - even if we work on B or C or D that doesn't mean that we - that there will be protections.

But I thought that it might be worthwhile highlighting some areas that need our attention and that we could work on those in parallel for the sake of saving time.

And should we come to the conclusion that no protection should be granted at all, that is okay, that is a potential outcome of this - the work of this working group. But to me at least in order to make an informed decision I can't say now whether I would want to grant special protections or not because to me it is a package.

And that means that we need to talk about criteria, we need to talk about the eligibility, about the process to be added to the list. We would also need to

talk about the potential tools for protection, may be the proposal to inflate or add to the existing reserved names list, may be tweaking existing or proposed RPMs or may be to invent new RPMs or other tools to achieve that aim.

And I think that once we have worked on all those sections then we have a package to which we can say yes or no.

And so I would like to hear your view on the latest version of this. I don't see any hands at the moment. Can I - I would be surprised if everybody were happy with this. Alan, please.

Alan Greenberg: Two comments. First of all on the struck out sentence that's just before Section 2, I know it's struck out right now but I'm going to remind the group that consensus is not the opposite of no consensus according to the definitions that are attached to our chapter - to our charter rather.

There are different levels of consensus. The least one is no consensus. The top ones have the word consensus in it but there's other ones that - there's another one in the middle.

So just recall that consensus is not the opposite of no consensus because it - you know, saying we're going to reach consensus on something we probably won't. But that doesn't mean a large number of the people don't agree. So it - you know, and I understand the sentence is gone now.

My specific comment is on - at the beginning, that I really would like to see in the first sub-sub bullet of A1, IGOs and INGOs separated. We have seen in answer to the particular question the predecessor of this group has seen immense amounts of information about the harms suffered by two specific INGOs.

I don't believe anyone has seen anything related to IGOs or perhaps other INGOs that meet the criteria. And I think it's really important that we understand what the problem is that we're trying to fix before we look at solutions.

Thomas Rickert: Okay, unless I hear...

Alan Greenberg: I don't want to group them together because that may mask the problems. Thank you.

Thomas Rickert: Thank you, Alan. Unless I hear any objection from you I would like to ask Berry to separate the two. Chuck, please.

Chuck Gomes: Sure, Thomas, thanks. My suggestion is that we go with Thomas' plan here as modified by - based on input he's received. I think we could easily spend a couple months trying to refine a process going forward and we don't have time to do that.

And I believe this process will - it may not be perfect but let's go with it and let's - not try and fine tune it too much. We'll be able to fine tune as we go. And let's get moving on our work.

Thomas Rickert: Thanks so much, Chuck. And unless there is opposition to that I would really like to - like the group to start working on the various items in parallel.

So in an ideal world we would sort of have a - have somebody, a volunteer, multiple volunteers in this group to take care and coordinate input and write up a draft, you know. It can be bullet points only for each of those sections that we can then present to the group.

Is there - and to be quite honest, I would like to collect both the pros and cons. So, you know, everything that can help the group make an informed decision is most welcome here.

Are there any volunteers to take care of one of those areas?

Berry Cobb: Thomas, this is Berry. May I make a small recommendation? After this call why don't we get together and we'll clean up what I'm now calling a work package, no longer a straw man?

And we'll also make an appendix to that that we can create kind of a volunteer segment so that people can sign up for the various sections per your request. And we'll kind of clean this up and we'll send it out to the list and have people volunteer on the list.

Thomas Rickert: Okay, that's fine by me unless we get a sufficient number of volunteers now but I'm not going to push much further on this.

So the idea - just to give you an example, there has been discussion on the mailing list where some of the participants have said that they think they could agree on - for example, the fact that just amending or adding to the reserved names list would be a good idea because that would prevent the organizations themselves from utilizing and registering certain designations.

So we might think of, you know, at least putting in there that - you know, adding to or amending the reserved names list, you know - a pro might be that it's an easy solution and that the technical infrastructure for that is already in place. But the negative side to it or the collateral damage to that would be that even the organizations in question can't use it and that there is no exemption process.

And then one could think of another tool with an exemption process and define the pros and cons for that. You know, or go through existing RPMs, say why they're not open to certain organizations which could be a weakness and propose ways in which they could be tweaked so that these organizations can be protected or use those RPMs.

So I hope that the idea is more or less understood. What I'm trying to do with this vast task is actually to break it down into various sections, have volunteers work on that in parallel, and then discuss the outcome or the preliminary outcome on the mailing list and in the calls.

Is that something that you could live with? Hearing no objections - Chuck, please.

Chuck Gomes: It's not an objection. I just want to make sure we're all clear on what you're asking for volunteers on. Now I think in the case of the registries and the end tag where we have multiple people involved and other groups are the same it will be helpful for us to put our heads together on that before we respond and volunteer and so forth.

But could you clarify, Thomas, what specifically you're asking volunteers to do to pick from in terms of topics or whatever you're getting at there?

Thomas Rickert: The idea is that we have maybe one caretaker if you wish, I'm not sure whether that's a good word in English, for each of the headings that sort of maybe comes up with a proposal as to what can go under these points and collect input from others volunteering to contribute.

So basically it's - I think it would be too much of a task for me to discuss with everybody but if we could have small groups with a volunteer each that collects and amalgamates the contributions into a draft document that would be very helpful.

Did that answer your question, Chuck?

Chuck Gomes: Not totally. So - for example, on the screen right now in Adobe is qualification criteria and eligibility check as two major categories. And then there are subcategories underneath that.

So is that - are those the categories that you're wanting input on? I don't seem to have ability to move the screen right now so I can't scroll it. There it is, it disappeared on me. Okay.

And then of course you've got protections and admission to protections. Are those four major categories the ones that you're talking about?

Thomas Rickert: I had thought of fitting it into these A, B, C, D whatever it is sections. And, you know, that doesn't mean that a volunteer has to write up everything but that volunteer would sort of send to the list the requests for people to provide input to that person and maybe take a discussion surrounding those off list and come back with a provisional answer or a proposal that people can look at so that we split the work into chewable bits.

Chuck Gomes: So which - what are the - could you define the A, B, C, D that you're talking about?

Thomas Rickert: A would be qualification criteria and subheadings but certainly we can have...

Chuck Gomes: Okay, so I'm looking at the right ones. Okay, you don't need to go any further for me. I was just making sure I was clear, okay.

((Crosstalk))

Thomas Rickert: Because I think those are interlinked and talking about qualification criteria, maybe that volunteer wants to come up with another matrix approach, that's fine by me. I just wanted to sketch out a potential way forward.

Chuck Gomes: Thank you.

Thomas Rickert: Alan?

Alan Greenberg: You know, Thomas, part of the problem is you have two As on the screen right now. You have A1, 2, and then A1, 2, and then B1. So that's causing at least some of the confusion when you're talking about A, B, C.

Thomas Rickert: Which is true, the A was added after last week's call but no adjustment has been made in the...

Alan Greenberg: Yes, I just wasn't sure which A you were talking about because there are two As on the screen at the moment.

I would be glad to take responsibility for the one named B, the eligibility check, because the answer is yes, that's my report.

Thomas Rickert: (Unintelligible) several options in there.

Alan Greenberg: Well, yes it is, but which we pick is going to depend on what the criteria are. There are some criteria which ICANN is going to be just fine to check. There are some criteria which will be on a list.

There are some criteria which will be esoteric enough and require legal decisions that we will have to outsource it. So I don't think we can answer those questions without knowing which criteria we're talking about.

Thomas Rickert: Okay, I'll talk to you more about that but we have a volunteer now, Alan.

Alan Greenberg: Only if the answer is yes.

Thomas Rickert: That was not unconditional which is too bad. (Greg), you have lowered your hand or did you still want to speak up?

Greg Shatan: My hand is down at the moment.

Thomas Rickert: Okay, so it was up and then down again. Okay, I've - I think we can't really make progress on that. Rather than, you know, having a more or less agreed methodology now and having agreed or at least no objection to working in parallel on the various subsections.

I would propose that we - you know, we have Number 8 in the agenda, the review of the IGO/INGO work plan. I think this can be better reviewed once we have spoken to the potential volunteers and the delivery of their provisional reports or draft input.

In terms of next steps, as Berry said, we're going to send updated versions of the documents to the list. Hopefully we're going to have the input request document or the request for input document finalized by the end of the week. So that can be sent out early next week.

And we will also send out a request for - or an encouragement to potential volunteers to work with us on this and I will be discussing with each of them so that we can make sure that we're on the same page.

And I hope to have a little bit more elaborated straw man document and maybe first input on the various sections that we can discuss next week and take it from there.

Are there any final remarks that you would like to make? Which leaves me with apologizing again for having changed the time at such short notice. Berry, the next meeting is going to be held at the usual time, am I correct?

Berry Cobb: Yes, next Wednesday, the 12th, at 19:00 UTC.

Thomas Rickert: That is great. Chuck, please.

Chuck Gomes: Yes, is there any chance of trying to find a time that's difference because that - every other week that will conflict with the longstanding registry stakeholder group meeting.

Thomas Rickert: When does your stakeholder group meeting end?

David Maher: Chuck, I think you've got it wrong. The stakeholder group meeting starts three hours earlier - four hours earlier than this meeting.

Chuck Gomes: Okay, that's my mistake. Okay.

David Maher: You were talking about that one time when we changed it last week.

Chuck Gomes: Okay, that's my mistake, thanks, David.

Thomas Rickert: Okay, thanks, Chuck. So we're going to meet at - what is it, 19:00 UTC next Wednesday and we will hopefully have general council input by then and also some more input by the group.

                 Thanks again, thanks to staff for helping me prepare this, and certainly also helping me review the last meeting and they will help me review this one too so that we can make progress as quickly as we can.

                 And thanks to all of you for the vivid discussion on the mailing list and the valuable input. And I'm looking forward to working with you again next Wednesday. Thank you, bye-bye.

Chuck Gomes: Thank you, Thomas.

Man: Thank you, Thomas.

Man: Thanks.

END