
ICANN Transcription

EPDP Specific Curative Rights Protections IGOs

Monday, 23 August 2021 at 15:00 UTC

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TERRI AGNEW:

Good morning, good afternoon, and good evening. Welcome to the ePDP Specific Curative Rights Protections IGO call taking place on Monday the 23rd of August 2021 at 15:00 UTC. In the interest of time, there will be no rollcall. Attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourselves now? Hearing no one, Osvaldo Novoa will be joining a bit late for today's meeting. We have no other listed apologies at this time.

All members and alternates will be promoted to panelists. As a reminder, please select "panelists and attendees" or "everyone" in order for everyone to see your chat. Attendees will not be able to chat, only view to the chat. Alternates not replacing a member are required to rename their lines by adding three Zs at the beginning of your name and at the end, in parentheses, the word "alternate,"

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which means you are automatically pushed to the end of the queue. To rename in Zoom, hover over your name and click “rename.” Alternates are not allowed to engage in chat, apart from private chat, or any other Zoom room functionalities such as raising hands, agreeing, or disagreeing.

As a reminder, the alternate assignment form must be formalized by the way of the Google link. The link is available on all meeting invites. Statements of interest must be kept up to date. Does anyone have any updates to share at this time? Seeing none, if you do need assistance with your statement of interest, please e-mail the GNSO Secretariat. All documentation and information can be found on the ePDP IGO wiki space. Please remember to state your name before speaking. As a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior. With this, I'll turn it back over to our chair, Chris Disspain. Please begin.

CHRIS DISSPAIN:

Thank you, Terri. Good morning, good afternoon, good evening, everybody. Welcome to call number whatever it is of the work track, now the first call of the ePDP, which brings me to the item 2a on the agenda. You will all have realized that we have the ... That the council has approved the move from a work track to an ePDP. To remind you that because the home for the work track was non-existent, and so, therefore, we didn't necessarily have the ability to report anywhere. And the council-suggested solution, or rather the staff-suggested solution embraced by the council at its meeting last week was for this to become an ePDP. So, as I said on the ... I was at the council meeting. So, it was John.

And as I said on the chat, I haven't chaired a Policy Development Process since 2004, and that was the ccNSO's internal rules, Policy Development Process. So, hopefully, I haven't forgotten how to do it. So, thank you, everybody. Welcome. Paul, I can see your note in the chat, and hopefully Terri can and will deal with that. I don't think there is anything of any significance other than your elevation to the GNSO Council, which congratulations. Okay. Let us move onto the next bit. Berry, why don't you do your talk to us about the timing at this point? Would that be a sensible thing to do?

BERRY COBB:

Thank you, Chris. I just wanted to put up on the screen here the summary timeline. This is an older version of the slide because, as just noted, we're an ePDP now. But the timeline is still intact. Our original target date to deliver the initial report was the 3rd of August. That was pushed out due to the closure of the public comment forum platform that is being transitioned to the new ITI platform. The latest I've heard, that is still on schedule to be made available on the 31st of August.

Ultimately, we'd filed a project change request with the council back in July and we committed to a new delivery date of our initial report for the 7th of September. So, after today's call, that just leaves us with the 30th and the 6th of September if we need it to wrap up final edits for the initial report and submit it for a public comment for 40 days. So, a long way of saying 7th September is still our target date. Thank you.

CHRIS DISSPAIN:

Thanks, Berry. That's great. Okay. Now, we'd got a document that staff prepared which is going to be, basically, the topic of our discussions today. And Mary is going to take us through that document. I appreciate that, Brian, you sent a redline through not that long ago. I hadn't had a chance to look at it and I very much doubt if anybody else has had a chance to have a look at it. Thank you for doing it. But what we'll do is we'll go through the document that everyone has had a chance to look at.

And if I could ask you, Brian, or anyone else who contributed to your suggested changes, that when we reach a point in the document where you have a problem or an issue that's reflected in your redline, you can bring it up, explain what their problem is, and then we can look at your redline at our ... Having being briefed by you as to why you have suggested the changes that you've made.

But for now, we're going to stick with the document, obviously, that all of us have had an opportunity to look at. Susan, I know you're in the attendees room. You might want to accept the invitation to be elevated to the level of panelist, if you can see that on your screen. At some point, you'd need to accept that invitation, otherwise you're going to stay in the attendees room. And at least you'll know what's going on. Okay. We also have some wording in respect to the proposed text on IGO privileges and immunities. Perhaps we could deal with that in the context of the document, Mary. Would that make sense to you, to do that, so that when we get to that point in the document we can look at that suggested wording that Brian, and Alexandra, and David put forward some days ago?

MARY WONG: Hi, Chris. Yeah, we can do that. In fact, we were wondering how best to handle it, to the extent that this new definition or language is accepted by the ePDP team, as we now are. There are probably a few places in the document that we'll need to rework it, and that's what we are planning to do once the group is comfortable with the definition. But we can certainly do that as go.

CHRIS DISSPAIN: Do you want to handle that? Do you want to handle that first? I know, Brian, I can see your hand is up. I'll get to you in a second. Do you want to handle that first? Would you prefer to do that?

MARY WONG: We actually do have that in a separate document.

CHRIS DISSPAIN: Okay. Why don't we do that?

MARY WONG: Where it is. So, okay.

CHRIS DISSPAIN: As long as we're not going to spend ... As long as we don't get lost in the weeds on it, I'm happy to do that. But let's go to Brian, first, and then we'll go back to look at this document. Brian, go ahead.

BRIAN BECKHAM: Yeah. Hi, Chris. Hi, everyone. Thanks for ... I apologize. IGO has tried to coordinate as quickly as possible, including over the weekend, so I do apologize for sending proposed markups to the list just before the call today. I just wanted to mention that some of those, as I mentioned in my e-mail, are somewhat technical, and here I would really defer to David and Alex regarding the terminology around privileges, and immunities, and courts, and that sort of thing. So, hopefully, those are acceptable on simply a kind of technical language level.

And then, some ... We're just sort of, maybe, slightly different understandings of the status of where we are at present in the working group. But what I was wondering is ... And I don't know what makes the most sense for whoever is controlling the material that we would see on screen [soon]. I have a copy of the document that I've just sent on my screen. But I'm just wondering in terms of toggling back and forth and for others to be able to see if it makes more sense to work off of that document. I appreciate that it's being done—

CHRIS DISSPAIN: No, Brian, because ... No, Brian, because we haven't ... It's not about the points that you raise, it's about that the text needs to be considered. I'm happy for you to raise the points. I've got no issue with you saying, "We've made some suggested wording changes here, here's why." But no one is in any state to agree new text at this point, I don't think. It's only going to ... I don't know.

BRIAN BECKHAM: Then, Chris, I'm sorry but I'm going to be interrupting you quite a lot, and I have to say I feel this is a pretty inefficient way to manage the call. But I leave that to your discretion because there's, in my mind, no point of toggling back and forth between two documents when the entire purpose of sending the document to the list and having this call is to, as you say, agree on the text. We've gone through that text. We've consulted. We've provided feedback to the group. So, if you prefer that we interrupt you every couple of minutes to ask that text that we have submitted to the list be put on the screen, we can certainly do that.

CHRIS DISSPAIN: That's not what I'm ... That's not what I'm ...

BRIAN BECKHAM: But I have to say that doesn't strike me as the most efficient way forward.

CHRIS DISSPAIN: I appreciate that and that's not what I'm saying. I'm saying that ... And respectfully, the request was not to send additional text but to raise points that you had an issue with. I'm grateful for the effect that has been put in to raise the text but most people on this call will not have had an opportunity to look at it at all, never mind about in any detail. I am simply asking not that you discuss the text that you have suggested but explain what the point is of why you have asked me to check for a change.

In other words, I'm trying to get an holistic overview of your comments on the document rather than deal with the wordsmithing, because wordsmithing is something we can do on the list with the changes that you have made. So, I'm not trying to stop the discussion on what it is that you have suggested, but rather to get a feel for the basis and the background for the suggestions that you've made, rather than the specific text.

Now that actually, to me, makes sense, but I appreciate it if you think that it doesn't. But for me, I think ... Well, let's see how we go. What's the worst thing that can happen? Let's see how we go and see where we get to. But before we do that, let's go to the ... Let's have Mary take us through the suggested changes to the wording that you have, that has been with us for some time, which is in respect to the definitions, I think. So, Mary, do you want to take us through that?

MARY WONG:

I can, and thank you, Berry, because it may be easier for the group to look at what we have now on the screen because this is the language that Brian, Alexandra, and David sent to the mailing list, and it shows the original text that we were talking about for some time crossed out with new text in bold and underlined. The only update that we made, as you'll see, is as a result of the discussion between Paul and Brian.

So, essentially, if folks have had a chance to read it, I think all we're asking for at this point is if this language that the three members put forward is acceptable with that tweak that we've put in here in response to Paul. And if so, we'll put it into the report. And as I noted

earlier, there may be a couple of places that we need to update language with respect to how the court exercises its jurisdiction. But really, I think all we're asking for here is if anyone has any concerns, or comments, or objections to, essentially, speak now.

CHRIS DISSPAIN: Or alternatively, if anybody wants to speak to it. And I don't think it's necessarily necessary but if anybody does want to speak to it and explain why it says what it says, I'm very happy to do that as well, of course. Does anyone have anything to say about it? Justine, go ahead.

MARY WONG: I see, yeah, Justine.

CHRIS DISSPAIN: Yeah, Justine, go ahead.

JUSTINE CHEW: Thank you, Chris. Sorry, I've not spoken up at all. I'm trying to respect the rules of engagement with this.

CHRIS DISSPAIN: Well, you're very, very welcome.

JUSTINE CHEW: Thank you for that. Simply because I'm the alternate. Anyway.

CHRIS DISSPAIN: It's all right, we don't mind.

JUSTINE CHEW: I had a question ... Thank you. I had a question regarding the ... How do you say? The implementation ... Well, a question to start, perhaps, on the way forward for treating the text in the square brackets with regard to URS. Meaning to say, are we simply just going to have ... How do I put this? Okay, the reason why I'm raising this is because, if I'm not mistaken, there is difference in terms of implications for the text, here, on UDRP as opposed to URS. Meaning to say, for example, if I'm not mistaken, there isn't a provision for staying implementation of a URS decision. Okay? So, unless I'm mistaken—

CHRIS DISSPAIN: Yes.

JUSTINE CHEW: Then, therefore, the context of what we are applying to UDRP doesn't stand for URS? Because there is not—

CHRIS DISSPAIN: Thank you for—

JUSTINE CHEW: Yeah, there is no provision—

CHRIS DISSPAIN: I'm sorry.

JUSTINE CHEW: For being a URS determination.

CHRIS DISSPAIN: Yeah. That's correct. Shall we ...? It's a very good point and we've chosen to deal with it at the moment, or rather not deal with it, by putting references to the URS in square brackets. So, would you be all right ...? Thank you for raising it and it is important. Could we just park it and come back to it once we've gotten through ... We know what we're doing in respect to UDRP? And then we can address, where relevant, the URS. Is that okay with you, Justine?

JUSTINE CHEW: Sure. I just brought it up so that we have a note of it.

CHRIS DISSPAIN: Don't forget.

JUSTINE CHEW: Yeah, because this is the text that's going into the initial report and we have to be accurate in what we're saying, really. Thank you.

CHRIS DISSPAIN: I completely agree, so thank you. And I know that Mary, and Berry—and Steven is not with us today—have made a note of that. Yes, Jay. How are you doing?

JAY CHAPMAN: Hi, Chris. Great, thank you. Hello, everyone. I'm just curious, again. I asked and Mary answered on the chat. But I'm looking at the screen and I thought we were talking specifically about the definitions, those sorts of things. But what I'm seeing, at least on my screen, is it looks like redline with regard to ...

CHRIS DISSPAIN: It is. It's about ... Sorry, it's entirely my fault for misleading you or misspeaking at the beginning, Jay. It is ... This is the correct text. This is the text that David, and Brian, and Susan, and Alex worked on.

JAY CHAPMAN: I see. Okay. So ...

CHRIS DISSPAIN: And that's what we're talking about.

JAY CHAPMAN: So, the second paragraph there, where it says ... I guess the adjusted text is if the IGO complaint does not waive its privileges and immunities. I'm just curious what the basis was for changing

that from the existing text. I'm curious what the reason for that was.
Because they could not—

CHRIS DISSPAIN: I think it's because ... Sorry, go ahead.

JAY CHAPMAN: No, that's okay, go ahead.

CHRIS DISSPAIN: So, I'm sure that Brian or Alex would be prepared to explain, but it seems to me that what we said originally was that, in the event that a court declined to assume jurisdiction, what we're being asked to ... What the group's being asked to accept is that if the IGO does not waive its privileges/immunities and then ... And as a result of that, the court is unable to proceed further. Now, I think that the text is built around the premise that there is immunity and it's only liftable if the IGOs waive it. But I also think that the text covers the court making its own decision because it says it's unable to proceed, it's unable to proceed. But maybe ... But I may be putting words in Brian's ...

JAY CHAPMAN: Chris, that's ... Yeah, and maybe you are, maybe you're not. I think that's a fair assessment, so that answers my question. Thank you.

CHRIS DISSPAIN: Okay. Brian, thank you. I can see your notes. Alex, do you want to address it in any detail, as Brian is suggesting you might be able to?

ALEXANDRA EXCOFFIER: I wish David was here. But I think Chris just summarized it exactly. It's the idea that the IGOs are exempt from legal process and would have to waive it ... Well, first question, waive our immunities or not to proceed with arbitration. Nevertheless, courts may judge that the case may proceed or not. And if the ... And I think that's captured by the new "if" which was introduced after Paul and Brian exchanged their messages. So yes, it happens. It would be, obviously, a mistake. We would appeal if the court did that. But yes, there is ... The court does make a determination, whether it's to uphold the immunities or not.

CHRIS DISSPAIN: Yeah. Thank you. I think, Jay, if I could just make the point that it doesn't matter what we say in this document. The court's a court and it will decide whether it wants to have jurisdiction or not. It is factually correct to say that it's open to the IGOs to wait if they wish to do so. I don't think, at the end of the day, it makes too much difference. Good afternoon, Kavouss. You're welcome. Please, go ahead.

KAVOUSS ARASTEH: Yes. Good morning, good afternoon, good evening. I think before we digest some changes we receive another change above that. So, changes to the changes. Redline to the redline. I read what you

sent us about some ten days ago. You said that they made a significant progress and we have only two issues: whether a registrant can go to court without losing the right to arbitration if the court finds the IGO immune from its jurisdiction and, point two, whether the choice of law for the arbitration should be up to arbitrators if the parties cannot agree. This is what you sent as a significant progress.

And now, what we see on the board or on the screen, I don't think that is significant because you made a lot of changes. First of all, there is something not very clear. We have to be very clear. And there are some things, again, in the square bracket or in brackets. So, we have to see where we are. So, could you kindly clarify whether still you are on the same two points that made, whether we have only discussed those two, or whether these paragraphs are in reply to those two questions. If confirmed, then we are ready to discuss. And I see, sometimes, a square bracket ... In my understanding, a square bracket is something that has not yet been further agreed, and see asterisks, and so on, and so forth. So, please, can you clarify where we are? Thank you.

CHRIS DISSPAIN:

With pleasure, Kavouss. This is text that was submitted to the group by Brian. I think it's Brian, Alex, and David [Sotola]. And it's the suggestion of the IGOs of the way to ... Which we asked for them to do at the end of the call that we had two weeks ago. I think it was two weeks ago, now. To actually put some text together that was satisfactory from the point of view of explaining what the IGO's position is in respect to court proceedings, which I think is exactly what this does. I appreciate that there is a reference to URS in

square brackets. That square bracket is for our own benefit in the sense that there are different issues that arise in respect to URS than this, but that's where we are. Was that helpful?

KAVOUSS ARASTEH: Could you allow me initial comment or not?

CHRIS DISSPAIN: No, go ahead. Please, continue.

KAVOUSS ARASTEH: Yes. Could somebody, maybe secretariat, take the text and put it in the clean version? Because it's difficult to see some of these TAC changes. So, below that, keep whatever you have. Below that, put a clean version, and put in a clean version, and they will ask to read carefully from all legal and procedural aspects whether we are in a position to understand what these three distinguished persons provided us. Is it possible you produce, or secretariat produce, a clean copy of what is on the screen? Below that, keeping the initial—

CHRIS DISSPAIN: Yeah, we're about—

KAVOUSS ARASTEH: Yeah, thank you.

CHRIS DISSPAIN: Yes, we can put that up. Yep. We already have it. It can come up in a minute. It will be ... As you watch, magic will happen and we will get the clean text. While we're waiting for that—thank you, Kavouss, the text will be up in a second—does anyone else have anything that they want or any comments that they want to make about the suggested text? There you are, Kavouss, I believe that is the ... Oh, no, that has disappeared again.

BERRY COBB: Yeah, Chris, it—

KAVOUSS ARASTEH: I would like to see clean text.

BERRY COBB: Chris—

CHRIS DISSPAIN: Yes, hold on a second, Kavouss. Berry, go ahead.

BERRY COBB: Cutting and pasting from an e-mail doesn't take the redline changes suggested, so it's going to take a few minutes. Maybe we just move onto a review of the report and we come back to this.

CHRIS DISSPAIN: Sure, let's do that. Kavouss, we will get back to this. I promise you we'll get back to that.

KAVOUSS ARASTEH: No, I don't want to see the e-mails. I have one computer. I cannot switch from another e-mail—

CHRIS DISSPAIN: I understand. I get it.

KAVOUSS ARASTEH: Back and forth, that's—

CHRIS DISSPAIN: I understand.

KAVOUSS ARASTEH: Yeah, just put clean text. I do it every day.

CHRIS DISSPAIN: We will.

KAVOUSS ARASTEH: Ten times, yeah.

CHRIS DISSPAIN: We will. I know.

KAVOUSS ARASTEH: Clean text.

CHRIS DISSPAIN: Well, we can't cut [inaudible].

KAVOUSS ARASTEH: And the start, which paragraph we have to read. I don't want to read the paragraph starting with the square bracket. Yeah. Thank you.

CHRIS DISSPAIN: It will be up as soon as we're ready. It's not ... You can't ... It's not like a ... It's in an e-mail rather than a Word Document, so you can't just click clean text. They have to clean it manually. But they'll do that now and it will be up shortly. Let us go. We will get back to it shortly, Kavouss. Let's go to Mary now and go to the document. Mary, over to you.

MARY WONG: Thank you, Chris, and hi, everyone. I will try not to take too much of your time but it seemed useful to frame the discussion that you will have over the substance of this report by letting you know how this report came together. Primarily, what you see—and I think there are many people in this group that are familiar with what it looks like—that there is a particular format and template for GNSO policy reports. In this particular case, an initial report ... And there are already a couple of updates that we will need to make.

First, it is the, obviously, updating the references to the IGO work track and the process background to reference the GNSO Council's latest decision, which is to use an Expedited Policy Development

Process for us to complete our work. That's just a process detail but it's important that we have it in this document for obvious reasons.

I think, as also most people know, when things go out for public comment it is important that the executive summary, which you see here on screen, as well as, obviously, the actual words of the proposed recommendations, the text of the preliminary recommendations, and, thirdly, any disagreements or any issues where the work track, in our case now the ePDP team, has not yet reached agreement and is seeking public comments on, that those are front-and-center of the document.

So, what we have tried to do here is to produce a concise document that nonetheless has references in the right places where we think most commenters will first focus on. What we have not done, which you may have seen in other reports out of the GNSO, is that we have not reproduced the actual text of the recommendations in this executive summary section one. The reason we didn't do that ... Well, there are two reasons.

One is that this is actually a relatively short report. This is what we were asked to do and, certainly, it reflects, I think, the very tight focus of the work that this group has done to date. And so, it didn't seem productive to reproduce a couple of pages of text in section one only to do exactly the same thing two pages down in section two.

So, section one has a brief introduction that illustrates the scope of work. It explains that there are a number of preliminary recommendations and a few places where the group has not yet reached agreement and it refers the reader to section two, which

follows immediately, for the actual text of the recommendations. So, I just wanted to highlight that because that is one place where we haven't done the same thing as we have for other GNSO policy reports that tend to be much longer. And that's by way of introduction.

So, we know that Brian, on behalf of the IGOs, has raised a number of issues, as Chris said. We haven't had the time yet to look at the document Brian sent back. What we had hoped was, by sending out this staff-prepared draft as soon as we could, that, as you read it, if there were a few things that jumped out at you, that you could raise it on the mailing list or at least on today's call. And by "those issues" we mean, obviously, issues of substance, not grammar, formatting, and things like that, which we will be happy to change.

But maybe for those more minor edits, those are things that you can handle with us staff directly via private e-mail or something. So, focusing on substance, we were definitely hoping that, if we got something wrong—in other words, we described something erroneously, like a factual inaccuracy about what was decided or about how you came to your decision—that is one critical error that obviously needs to be pointed out and corrected before we go to public comment.

Secondly, if there were other substantive issues that needed to be covered or that the work track had not yet completed considering, then those are not reflected in the document, that we hope that those would be highlighted. And of course, thirdly, any concerns about the way that we have described the group's decision-making process and actual agreements. So, Chris, that's really by way of

introduction. We weren't planning to go page-by-page but, given that Brian has sent—

CHRIS DISSPAIN: Yeah, I think it would be useful to go through the recommendations.

MARY WONG: Exactly.

CHRIS DISSPAIN: And, given that there are some brackets in there and other things that will need to be raised. So, why don't you take us through those recommendations and we can ... Anyone, then, can bring up, as we go through, objections, difficulties, challenges that they may have with any of that.

MARY WONG: Perfect.

CHRIS DISSPAIN: Brian, please go ahead. Good. Thanks, Mary. Brian, go ahead.

BRIAN BECKHAM: Yeah. Thanks, Mary. Thanks, Chris. I just wanted to mention I completely understand, and so I'll just give you an example. We had proposed some small clarifications to the preamble and if you look, for instance, on page three to add a line about that this is now an ePDP instead of a work track within RPMs, etc. ... So, I perfectly

accept that that's the kind of stuff that we could do on list. So, I certainly hope that people do that. But just to give you one small example, if you would look at the bottom of page three—at least, it's page three on my document—the paragraph starts with recommendation number five from the IGO/INGO access.

So, if you look there, it says success ... Towards the kind of middle right of that paragraph it says, "The IGO successfully claims immunity." And so, just to give one example by way of asking a question, in the markup that we submitted earlier today, we have proposed changing the word "successfully claims" to "asserts." And so, the question is whether that's the type of thing that you would like flagged now during our run-through or that would also be better to kind of clear on the list.

CHRIS DISSPAIN:

I think that ... So, thank you for seeking ... For striving for clarity. Much appreciated. I think that's exactly the sort of thing that we should be just dealing with on the list. I would argue that that is not a ... It is correct. You are correct. That is the correct way of putting it. And it's something that, again, I don't ... You know, if we ... We'll end up spinning our wheels if we raise these points in our telephone discussion. Is that okay, Brian? Does that make sense to you?

BRIAN BECKHAM:

Yeah, absolutely. I just ... Thanks, Chris, for confirming. I just wanted to make sure that those more technical ... Because I do know ... And again, David and Alex can speak much more clearly on this than I, but those types of a thing where we talk about claim

versus assert, those kinds of details are thought to be important. So, I just want to make sure that those aren't missed and also that they're understood, not be [inaudible].

CHRIS DISSPAIN: Completely agree.

BRIAN BECKHAM: Technical legal meaning.

CHRIS DISSPAIN: Yeah, completely agree. And what I'm trying to avoid is a situation where ... So, if somebody is on the call and they might need time to think about that ... And if they've got an issue with it, then they can raise the issue on something like that. If they've got an issue, then they can raise the issue on the list and say, is there a reason why that needs to be the case? Substantive changes, when we get to look at the recommendations. Obviously, "I don't agree with this. Well, this doesn't make sense to me." Those are the sorts of things that we need to be discussing on this call. So, thank you for that, Brian. Kavouss, go ahead.

KAVOUSS ARASTEH: Yes. Still, I am waiting to receive that clean text. Okay. No problem. But I have some comments.

CHRIS DISSPAIN: Yes, we'll get back to it.

KAVOUSS ARASTEH: Yeah, yeah, okay. Let me finish, then you come in, please. I am an old man, I would like to be respected. Please do not intervene when I am speaking. When I finish I'll say thank you and then you comment. I fully recognize you're right, very right, as the chair. I don't agree with Mary's suggestions that we indicate the area that we have difficulties. Yes, the text has two parts, parts that this group has preliminary agreement. So far, so good. Other parts that this group has not reached agreement.

However, like many other reports of the ICANN, we could mention on the subject X, "The group did not reach any agreement. However, the following options were discussed and put for comments or for public comments." We should propose some options whether one, two options, or three options, and so on and so forth. We should not say, "We don't agree." So, what does it mean if you don't agree? A group of people, everyone experts except me, discuss for many weeks and now, at the end, saying that we don't agree, and leave it to public comment, one individual or a group of people saying, "Okay, this is the way." So, that means we totally put us in the hands of the public commenter.

But we have something. We have done something. At least, you have done something. So, I suggest that for the area that we don't have agreement, we don't reach agreement, we mention that clearly but we said that, "However, the following options or alternatives were discussed," and put the options. Based on that, we do not mislead the public. They know what we have discussed but we have not agreed on any of these one, or two, or three

alternatives, but they are there. Maybe we receive more comments. That will enable us to look at that one. Thank you.

CHRIS DISSPAIN:

Thank you Kavouss, and that is precisely what we are doing. There are a number of places in the text where we have alternative suggestions. I think there are two that I can remember. There may be more but there are certainly two that I can remember where we have not reached agreement about one ... I do not believe there is anywhere in the text where we say that we have not reached agreement but we don't offer some alternatives.

So, thank you for that. We are ready with the text of the redline that was prepared by Brian, and Alex, and David. So, Mary, if you'd like to get that up on the screen now, we can deal with that and then get back to looking at the proposed recommendations with Mary. Kavouss, this is the text that you asked for. That is the clear text. Would you like that to be e-mailed to you?

KAVOUSS ARASTEH:

No, I don't like e-mail, as I mentioned. I cannot have at the same time ... I don't have double [inaudible], and so I prefer to look at the text on the screen. And I do not know what we do with starting something with a square bracket. It is something that is fundamental to start with that as provided in [inaudible] above, or we start with a case itself. So, I am not opposing to that text but I am commenting on the area that text ... Okay, if you take out square brackets ... Yeah.

CHRIS DISSPAIN: Yeah. I think that was a ... I think that is actually a superfluous square bracket, in fact, because it doesn't end ever. And so, therefore ... No, it ends there. Okay. Well, let's ... Anyway, carry on.

KAVOUSS ARASTEH: Sure, yeah. So, I suggest that if you want, at least, like many other groups, we'll start to look at that one paragraph by paragraph, unless you want to have a global lump sum of everything as a package. Because it would be better to see whether at least have some preliminary agreement on any of these paragraphs. If not, we take it away and we go to remaining parts. So, I suggest that, if you want, we take it a paragraph by paragraph and say that this paragraph is a replacement of which paragraph of the current text. Would like to know—

CHRIS DISSPAIN: Well, it isn't a replacement. It's not a—

KAVOUSS ARASTEH: It's addition, in addition.

CHRIS DISSPAIN: Correct.

KAVOUSS ARASTEH: Yeah. So, can we go to the paragraph by paragraph approach and to see whether we could agree on something at this and the first steps? Thank you.

CHRIS DISSPAIN: Well, yes. However, just to be clear, this text appears to be, unless I've missed anything, basically, acceptable to the group. So, Kavouss, if you ... What it basically does is it deals with the way that an IGO complainant would handle a court application by a registrant. And there's an awful lot of boilerplate text in there. For example, waiting ten business days before implementing a UDRP panel decision, which is standard from UDRP.

And I believe that the second paragraph is where most of the work was done by the small group of Brian, and Alex, and David, to say that an IGO complainant does not waive its privileges and immunities. If it doesn't, then the registrant and the court can't proceed any further because of that, then the registrant submits to binding arbitration.

All of this is what was agreed in an outline by us all prior to asking Brian and the others, Alex and David, to actually come up with some text. The process has been agreed for some time. It's the addition of the mention of a waning of privileges and immunities that is the main point of the changes that have been made. But perhaps, Brian or Alex, if I have misrepresented the work that you've done ... Or perhaps you could just confirm that I've got that right and that that was the basis upon which you were adding stuff to the text. Alex, go ahead.

ALEXANDRA EXCOFFIER: Yes. Thank you, Chris. Yes, you explained it perfectly. Just for Kavouss, the reason there were square brackets is that this is one

of those situations where there wasn't full agreement with the group of what happens in case the registrant is unsuccessful in the court, and this was one of the options, meaning that they would have the right to then have the case reheard through arbitration. The other option is that that would be the end of it, if the court confirms immunity. So, that is why there were square brackets. They were probably not where they should be. They probably should be lower because the first paragraph would apply in any case. But this is why you would have seen square brackets on it.

CHRIS DISSPAIN:

Thanks, Alex, and that is right. And in fact, this text, if it's agreed as the text—not agreed as the principle but agreed as the text—would go into the document as the one alternative, with the other alternative being that there is no ... If you go to court, you don't go to arbitration. That's what we had agreed, so there would be two alternatives offered and seek public comment on those. Yes, Kavouss, please go ahead.

KAVOUSS ARASTEH:

Yes. I have two comments. First, on the sequence of appearance of this paragraph. In the second paragraph, we say "if the IGO complainant does not waive its privilege and immunities." That means somewhere in the text we should have said that "they have their immunities." Where that text is? Because you say that "if he does not waive its privilege and immunities." It means that they should have been already rendered, or given, or provided the immunity. Where is that text?

And then, to go to a round bracket, I don't understand what the round bracket means. Sometimes, round bracket means explanation. And "if the result that," this is not the correct English. "If the result that." If the result of which is that? If the result that ... The result of what is that? If the result that the court is unable to proceed further, there is no sequence. You are talking that IGO does not waive its privilege and immunity, and then you say that "and the court unable to proceed further because IGO does not waive its immunity."

Is that what we are saying? If that is the case, we could put it in the proper language. And the text in the round bracket is missing one word or one something. "If the result of that would be or is that the court is unable." So, you have to correct that because, currently, something is missing in the round bracket text. Thank you.

CHRIS DISSPAIN:

Thank you, Kavouss. I believe that there—I may be wrong about this—is an explanation, or there is at the beginning of the document, a reference to one of the reasons why we're all here and the reason why we're needing to deal with these issues is because the IGOs have provisions and immunities. But your point is well made and we will make sure that there is a reference to that.

And as for your comment about the brackets, that's also correct, and it should say, and in fact now does say, "If the result is that the court is unable to proceed further." So, thank you. I'm very conscious of time. I wanted us to go through the ... I want us to go through the recommendations, and Mary takes the recommendations. So, I am going to ask that the text, Berry, that

you have created for us and put up just now that we have just been briefly chatting about, could you please put that in a separate e-mail to the group and just say, "This is the clean version of the text," and perhaps, if anybody has any comments, they can make those and we can finalize that next week.

Mary, could we go back now to the document and the recommendations and have you take us through those so that we can pick up any red flags or major issues? And just so everybody knows, my intention then is that, next week, having had an opportunity to consider and to comment on the list on the suggested changes, additions, changes, and edits, that the IGOs, the IGO group, or, if I may call them that for shorthand, have made, and also any other comments or suggestions that people may choose to make in the next few days. We will then be able to nut out a second ... Or rather, a not final but almost final draft of our initial report on our call next week. So, Mary, back to you, and if you could take us through the relevant bits that would be really helpful. Thank you.

MARY WONG:

Certainly, Chris. And if I may, just to echo your request that the group highlight specific concerns and substantive issues between now and next week just so that we can try as much as possible to resolve them before going into public comment. And secondly, again, to echo your point earlier that there are square brackets in this text that illustrate the options under consideration by the working group. Or, sorry, the ePDP team.

I know not everyone will have a chance to read the report but we also, in the report, make clear in, I think, at least two places where

the group has reached preliminary agreement and the specific points on which the group is still considering square bracketed text. So, hopefully, in totality, that makes sense. Where the recommendations are concerned, you will see that these are pretty much exactly what you have been considering out of the Google Doc for the last few weeks, including where relevant options for consideration in square brackets.

So, recommendation one, I won't read it. This text has been unchanged for several weeks. The point where we have not had preliminary agreement, you will see, is in the definition under (i) part B. And in somewhere else in the document, we have actually put in a few references to the UN structure and organization to help illustrate this point so that we can get some hopefully helpful public comments.

The second part, like I said, it does not change. This is the same that I believe, actually, that the group comprised of Paul, Susan, and others proposed. So, from the staff's perspective, recommendation one has not seen any discussion or substantive changes since the group settled on this language.

CHRIS DISSPAIN: Except for the addition of the possible expansion—

MARY WONG: Correct.

CHRIS DISSPAIN: Of the definition in (i)b. Brian, go ahead, please.

BRIAN BECKHAM: Thanks, Chris. Thanks, Mary. Apologies for a somewhat mundane comment but I, even as a person who has been very involved in this work track ... And I've read several times this draft initial report. It's not always immediately obvious where the bracketed language is. It gets a bit buried in a 20-something-page document. So, apologies for something of a—

CHRIS DISSPAIN: Good point.

BRIAN BECKHAM: [inaudible] armchair quarterback comment. But one of the things that you'll see ... And it's just a suggestion. Feel free to improve it or discard it. But one of the things that you'll see in the markup that we sent earlier was just some ... In this case, it was highlighted, and bolded, and italicized, and then there was even an asterisk underneath that said "this is language that the group is considering, please help us here." I'm paraphrasing, of course. But I think nowadays, especially, these are pretty meaty topics, and anything that we can do to kind of hold the hand of a person who is picking this up from scratch, in my view, wouldn't be the worst thing.

CHRIS DISSPAIN: You had me at hello. I completely agree with you, and the brackets are confusing, and you are correct. We need to be clearer and more highlighty. Mary, I imagine you're going to say the same thing.

MARY WONG: Well, actually—

CHRIS DISSPAIN: No, you're not.

MARY WONG: I was going to say that that's something that we have kind of gone back and forth on and struggled with. I think what we're trying to get at is a balance between highlighting to the public where, what, and why we need their input on places where we have that preliminary agreement without overly emphasizing those points at the possible expense of getting comments on the recommendations overall. So, we can certainly ... And thank you, Brian and IGO representatives, for the suggestions. We can continue looking at it to see if we can find that balance.

CHRIS DISSPAIN: I think that's right. I mean, I'm not necessarily saying we should highlight stuff because, as you quite rightly say, that can hone people's minds in on that and only that. But that said, I think Brian's point is spot-on and I do think that it's not clear. It's clear to us because we've been playing with this for as long as we have but we need to make it clearer. So, we'll work on that and, hopefully, in the

next version we'll be able to come up with some system that makes us all happy. Thank you for that, Brian. Alex, go ahead.

ALEXANDRA EXCOFFIER: Just to make a personal plea that, maybe, in this definition, the square-bracketed text, perhaps we could discuss further and then concentrate on the bracketed text of substantive law. And the more important one is what happens, the two choices of what happens if the IGOs prevail in immunities. This was sort of last-minute, and perhaps if we could have fewer bracketed texts and really concentrate on the two points, that ... You know, the substantive law and the immunities question. That could be preferable. I don't know how you feel or how others feel, but the least the brackets are the better.

CHRIS DISSPAIN: I appreciate that and I agree with you. One way of solving this particular (i)b problem is if we could get ... Which we may have had, but if we have I've missed it, some examples of a reason why it needs to be there in the sense that I'm not, in principle, opposed to it, but the issue is whether it is solving a problem that actually exists or whether it is, instead, widening the definition beyond a point that is comfortable.

So, I think it really is just a case of, perhaps, if someone could put their mind to coming up with some examples of something that would not be included if we didn't have that that should be included. Then, I think we could either lose it or ditch the brackets and leave it in. But let's move on, and let's leave that hanging out there for the

group and see if anybody picks up the challenge. Brian has picked up his hand. Go ahead, Brian.

BRIAN BECKHAM:

Thanks, Chris. Thanks, everyone. In terms of the bracketed text here and the suggestion by Alex, I also share the view that it's fine to include, at the same time, the question of what it adds. I can only add this perspective, and maybe ... And I appreciate we don't want to wordsmith on the fly. But at least, here at WIPO, there's a process whereby an organization could apply for observer status at ... For example, we have a Standing Committee on trademarks, which discusses things like domain names, ICANN, UDRP, that sort of thing.

So, an organization can apply for ad hoc observer status to a Standing Committee. And this, of course, I should be clear, is specific to the internal rules of this organization. And then, there's a separate process to apply for standing observer status at the general assembly. So, I'm just thinking out loud if there's not a way to meet in the middle, here. In other words, to leave the spirit of the text and kind of defer to the institutional protocols of whichever organization would be invoked, if that makes sense.

CHRIS DISSPAIN:

It does make sense, Brian, but if I could just test it a second. So, in the WIPO context, is it not possible that somebody could apply for that status that wasn't an IGO?

BRIAN BECKHAM: Yeah, absolutely. There are NGOs, but that would be a different status. First of all, there are the ad hoc observers for the Standing Committees, and then there's a completely separate process to apply for a standing invitation to participate as an observer before the general assemblies. But within that, there are different processes for inter-government organizations, non-governmental organizations, civil society, etc. So, what I'm saying is I think it's possible that the internal rules of organizations would already address the nuance between the Standing Committees and then the further level of IGOs versus NGOs versus civil society groups, that sort of thing.

CHRIS DISSPAIN: That's where I'm getting confused and I'm going to ... I know that Kavouss' hand is up and so is Mary's. I'll be with them in a second. That's where I'm getting confused. If I understand it correctly, there is the standing invitation to participate as an observer in the sessions and the work of the United Nations General Assembly, and I think that was the original text, and I think we all were comfortable with that because that is what is in the original definition that the GAC had.

If I've understood you correctly, what you're saying is that the additional text is including the work of its Standing Committees and any of its specialist agencies would mean that that would encompass somebody applying for observer, or standing invitation to participate as an observer, in WIPO, and that would not necessarily be an IGO. Have I misunderstood?

BRIAN BECKHAM: Yeah. I'm getting a little bit lost myself. I think that the point is that nothing ... No determination by an organization, whether that's WIPO or one of the UN agencies, other IGO, would confer status on another organization as an IGO, as an INGO, etc. So, what I mean to say is that the internal rules of each organization would specify which organization could apply for which body and their institutional status would be pre-existing that application. So, in other words, this doesn't confer a status on an organization, if you see what I mean.

CHRIS DISSPAIN: Okay. Let's go to Kavouss, and then Mary, and then Yrjö. Kavouss, go ahead, please.

KAVOUSS ARASTEH: Yes. Chris, I can suggest the following. Before the text in the square bracket, if you pick up any of its specialized agencies, pick it up, cut it from that, and put it in the C: "After a distinct entity, any of the specialized agencies or program of the UN or United Nations ..." I have no difficulty deleting the square bracket.

CHRIS DISSPAIN: That actually, to me, makes sense. Berry, could you do that just now? Let's have a look at that. So, you take ... Oh, you've got ... It's not an editable document, is it? Sorry, that's my ... Or is it editable? Yes, it is. So, if you could take out "specialized agencies"—

KAVOUSS ARASTEH: Any of the specialized agents.

CHRIS DISSPAIN: And of its specialized ... Yeah, got that. And of its specialized agents.

KAVOUSS ARASTEH: Of its ... Any of specialized agents. Please delete "its." There is no "its." "Any of their specialized agency, organ, or program of the United Nations." Thank you.

CHRIS DISSPAIN: Yeah, that makes sense. Any of the specialized agencies.

KAVOUSS ARASTEH: Please. Yeah. The special agencies.

CHRIS DISSPAIN: We're getting there, yeah.

KAVOUSS ARASTEH: Yeah. Comma, organ or program of the United Nations. Then, I can delete the text in the square bracket totally. I am not concerned about the Standing Committee and so on and so forth. My problem is that the specialized agency could be in number C, and that is [inaudible]. Okay. I hope we can have some agreement.

CHRIS DISSPAIN: Thank you, Kavouss. That's incredibly helpful. Let's just sit on that for a little while and let's go to Yrjö.

YRJÖ LANSIPURO: Yeah, thank you. Yeah. I think it's important to note that whatever list of invitations we are talking about here, that applies only to those invitees who are intergovernmental organizations. Because, for instance, the list of standing invitations to the UN General Assembly includes, for instance, non-UN member states but Palestine, and [inaudible], Vatican, and so on and so forth, and also some non-intergovernmental organizations, so that it's important that we talk about IGOs, intergovernmental organizations, all the time. Thank you.

CHRIS DISSPAIN: Thanks, Yrjö. I think what we'll do is ... I think that this may well be a solution but let's get that text into ... Well, let's clean that text up and then we can think about it over the next few days and see if we can agree it. But thank you, Kavouss, for that very constructive input and suggestion. Much appreciated. Let us then move to 212, which is the next bit. Mary, back to you.

MARY WONG: Thank you, Chris. I think we're getting to a point where Brian and Alex may want to intervene because, as I said earlier, what you see here is pretty much a reflection of the Google Doc. And what we had understood is that recommendation 2b flows from 2a and then flows into 2c. Understanding, also, that for 2c we had discussed an appeals option. But the language itself, without going into the

language of 2c, we just look at 2a and 2b, and going to 2c, that is basically descriptive language. That's pretty straightforward. That hasn't changed. I think that the key here is to ascertain the group's agreement as to what exactly is interdependent, integral, and comes as a package.

CHRIS DISSPAIN: I had understood ... In my mind, I thought this had all come ... Effectively, all hung together because, if you didn't accept the whole package, then it doesn't solve the problem. But maybe I've misunderstood. Does anybody want to—

MARY WONG: That was our understanding too, Chris, and I hate to put Brian on the spot. I might have misread one of his e-mails but I think the concern there was the flow into 2c, that we're basically only talking about an arbitration option. But I don't know if that was the concern or whether it was how we expressed 2c that was the concern.

CHRIS DISSPAIN: Brian, do you want to try and tackle that?

BRIAN BECKHAM: Yeah. Thanks, Chris. Thanks, Mary. I'll do my best. And I just put in the chat something that I had put earlier, so I appreciate that it would have scrolled up and it wouldn't be—

CHRIS DISSPAIN: Yeah, I've seen that. So, you're right, three options. You're correct. Direct appeal via arbitration, UDRP. Yeah.

BRIAN BECKHAM: So, I think what we had agreed was that ... Yeah. So, I think we certainly agreed that the parties could voluntarily agree to arbitration. Obviously, the initial request was that that would be the first and only step. Then, from there, I think ... And that's why I've put it as a 2a and 2b, which is why I think that there may still be some discussion to be had or we just [park it] as different participants see this differently, which was whether, once a registrant would seek to go through the court routes, if the court shuts that down on a jurisdictional basis, whether that's the end of the road and the initial UDRP decision is implemented.

And then, the kind of competing option, if you will, was then that could open the door for arbitration. And I think if we put it in a way where there's kind of a one, and a 2a, and a 2b, then, obviously, different members of this group have different opinions, but that's how it is. And so, we're seeking feedback on that.

CHRIS DISSPAIN: I agree. I thought that we were ... That's completely correct. I mean, my simplistic way of saying it is the registrant can go to court. The registrant ... If the immunity situation wins ... And I know that's not the right word but don't worry about it for the moment. Wins. Then that's when the decision tree splits and it's ... Some say, then, they can go to arbitration. Others say, no, you've missed that opportunity to go to arbitration because you should have done that before you

went to court. I mean, I think that's correct. But I thought that what ... But what I thought Mary was saying was slightly different, which is a different point, which is to do with whether all these recommendations hang together. Mary, were we talking about something else? Am I confused?

MARY WONG:

No, but I think Brian has clarified, and it sounds like it's perhaps the way we describe or characterize what you now see on-screen. What I was going to type in the chat, Chris, was that we did try to capture, I think, what Brian here says, 2a and 2b, in the italicized note that precedes this text. So, maybe it's just not very clear.

CHRIS DISSPAIN:

I think what Brian is saying makes sense, which is that we should ... I mean, leaving aside how we're going to delineate these choices, and square brackets, and all that stuff, completely agree. But I think Brian is right that it needs to be clear that there's a split in the decision tree, if I can use that terminology, and that everything is the single, single, single, until you get to a certain point. And when you get to that point, it's registrant loses, registrant has a choice. It can go to arbitration straight away or they can ignore it. Let's ignore the ignoring it. The choice.

They can go to arbitration straight away or they can go to court. If they go to arbitration straight away, that's easy in the sense that that's no problem and that's all sorted. If they decide to go to court and the jurisdictional issue ... That the immunities issue gets in the way and there is no substantive hearing in the court because the

court won't hear it or can't hear it, that's when it splits and that's when some people in the group say, "Well, because you chose not to go to arbitration at the beginning, going to court ..." Sorry, before that. "Going to court was your final roll of the dice. You failed. You lose."

And there are others in the group who say, "No, I should have the right to go to court, and if that doesn't work, if there is no substantive hearing because of the procedural issue, then I should go to arbitration." Those two things need to be presented as two alternatives, and I think that's what Brian is saying, and I think that that could be clearer.

MARY WONG:

Thank you, Chris. Yes, that is indeed much clearer, and I think Brian is confirming in the chat. We did think about this when drafting but we thought that it would be best to follow the language and sequence that the group had in the Google Doc. But we hear you and Brian loud and clear. We'll work on a way to do that that makes it clear that there is that fork at that point in time.

CHRIS DISSPAIN:

And now, Jay is up next, and Jay wants to talk about the italicized text, I think. Jay, go ahead.

JAY CHAPMAN:

Actually not, and thanks, Mary, for setting that up.

CHRIS DISSPAIN: Oh, okay. I apologize.

JAY CHAPMAN: I was just wanting clarification on what we were looking at. So, I understand all the discussion and what we're talking about. I mean, I just want to kind of put a pin in here. And again, I know people don't necessarily like this. Some don't. We've always been looking at this from an entirety standpoint, right?

CHRIS DISSPAIN: Yes.

JAY CHAPMAN: And so, 2c, in my estimation at this point, is very relevant to ... What happens with 2c is also important to how 2b is assessed. And so, I don't know if it's appropriate to put a pin on 2b, as well, to say it's ... I mean, again, I think there are even things that we still haven't talked about yet that could come up that kind of play into that totality of factors and things that we consider. So, I'm just raising that just to make sure it's not ignored. Thank you.

CHRIS DISSPAIN: It's not. You are ... Jay, thank you, and you are completely right to raise it, and no, it is not ignored. This is an initial report, and there will be public comment, and no one is saying that this ... At least, as far as I'm concerned, no one is saying that we have agreed, just as an example, as a work track or an ePDP, recommendation 2b in isolation. We have not agreed that. This whole thing hangs together

as a package and I think everybody respects that because there has been a lot of [maybe one to side], a lot of give and a lot of take. And my give on one is your ... Has meant you giving on two, type of thing, and I think that's really the point. So, thank you for raising it, and it's an important point. Mr. McGrady, how are you?

PAUL MCGRADY: [inaudible]. Hey. I guess I'm a little confused. I thought we would have made more progress [with issue] and that the purposes of Brian Beckham's intervention on the list was to indicate that the IGOs had agreed already to the idea that if the fork defines jurisdiction then a losing registrant would then go to arbitration. Just for clarity, that's not the case, we're still dealing with this in the alternative? I hate to ask something that's [so dumb].

CHRIS DISSPAIN: No, no, no. That's a good question. I believe that I ... I mean, Brian can speak for himself and no doubt will. But my understanding was that they kindly agreed to put that wording together as to what would be acceptable but that that wasn't to say that they were prepared to consent to, or rather reach consensus on, that way forward. Brian, have I got that right?

BRIAN BECKHAM: Yeah, that's right, Chris. And certainly, invite Alex to add her thoughts. And this is why we thought it was really useful to put the flow chart, which was ... Look, I mean, if we're zooming out and we see that there are all these potential court forks in the road with the time, and cost, and, by the way, legal uncertainty that that brings

with it, then the thought was, look, that's the choice that the registrant has made. That's fine. But that should come with repercussions.

CHRIS DISSPAIN: Okay. Understood, thank you. I think we are all now clear as to what pages we're not on together, if you see what I mean. I'm conscious that we are running ... We're going to run out of time shortly and I want us to set ourselves up for the work to come. Mary, is there anything else that you want to cover?

MARY WONG: Not from our end. Again, to just encourage folks if there actually are substantive issues that are either inaccurately described or, worse, not included, to please raise that on the list. And similarly, if something that we have said wrongly portrays how the group has reached its decision. Other than that, I think we have our homework and we'll try and get the updated text to everybody as soon as we can. Yes, the flowchart, too.

CHRIS DISSPAIN: So, the flowcharts. I mean, the flowchart was a really good call and it's an important addition. It definitely needs to be there. I think, therefore, this is where we're at. There is a standard document and then there is a redline document which Brian, and Alex, and David, and others maybe have ... Brian, did you want to ...? Go ahead, Brian, if you want to say something.

BRIAN BECKHAM: Yeah, thanks. And again, there are some, let's say, technical language suggestions proposed on the new ... On the text on the 2a, and 2b, and 2c. One thing that I wanted to mention ... So, I don't want to get into any of the language. I know that that can be done on the list. But I did have a question about the policy impact analysis, and that was something that seemed to be a somewhat new introduction. So I was just wondering. On a certain level, of course, it makes sense.

But as you'll see in the document that we sent to the list, of course, and as others on the call will know, even under the "regular UDRP for trademark owners," there may be a number of reasons why, in that case, a brand owner wouldn't choose to proceed with the URS case. So, we just thought, maybe, a little explanation on the background and then a discussion on whether it captured the full nuance of what it was supposed to capture would maybe be useful.

CHRIS DISSPAIN: Mary, do you want to address that?

MARY WONG: I can, and, as I said earlier, this is pretty much based on the expectations and requirements of GNSO policy reports. And I apologize, I should have drawn the group's attention to this section. Thank you very much, Brian. In that it is new to the group because we haven't discussed it. In terms of ... I guess I've addressed why it's in there. In terms of what's in there, I think the explanation would be much clearer if I asked Berry to do it, if he doesn't mind.

BERRY COBB: Thanks, Mary. So, the inclusion of this section is part of our PDP Working Group guidelines. It requires that we try to analyze the impact of the recommendations as they sit within the document. But really, the bigger point is to identify metrics or ways to determine the effectiveness of that policy going into effect down the road. All consensus policies are required to be reviewed after certain amounts of time. For example, the transfer Policy Review. That's underway right now. It is, in effect, a restart from the prior policy that was developed back in 2011, I believe, and has since been implemented.

So, the specific text that we have here is really just a first attempt at what data may be collected to analyze the effectiveness of the policy changes. Staff is not wedded to the specifics that are listed here. We looked for the group's input but we do need to try to offer up some ways to measure or collect data so that a future analysis can be conducted to inform a review of this policy at some point in time. Thank you.

CHRIS DISSPAIN: Brian, does that give you a flavor?

BRIAN BECKHAM: It does, thank you.

CHRIS DISSPAIN: Excellent. So, what I would like to do, to suggest, is as follows. Brian, I am conscious ... And I know ... And the stuff ... The changes ... The redline that you have produced is a very important document

and it does need to be looked at and dealt with. So, what I'm going to do is to ask staff to take the document that you sent earlier on today, to change anything in the text that we discussed today so that the suggested UN stuff and various ... So, that would be a sort of redline on the redline, if you will, although maybe additional redlines, rather than redlining your redline.

And then, to make any comments that they may have about anything that you have suggested in that document, and then get that out to everybody so that your document is considered properly with your suggestions in there. It seems fair that that is the case and I do understand what you're saying in the chat. I completely agree with you. So, if we can do that, Mary, you can do that, presumably?

MARY WONG: Chris, just to clarify, what is it that you wanted us to do with the document that Brian sent back?

CHRIS DISSPAIN: I want you to use that as the base.

MARY WONG: I got ... Okay, yeah.

CHRIS DISSPAIN: I want you ... Yeah? And then, you ... So, make the changes that we've discussed on this call, which I don't ... Which I think are to other texts, right? So, there's the UN thing that we talked about and a few other bits and pieces. Are you with me so far?

MARY WONG: Yes. I guess our concern—

CHRIS DISSPAIN: And then, have that sent out, and then look at what Brian ... The changes that Brian has made and see if there are any comments that you want to make on those, and then get it sent out to everybody.

MARY WONG: Okay. Yep. Because we just haven't looked at Brian's redline, and I guess we were slightly concerned as a general matter that it might make it messy for folks to read as a redline on top of a redline.

CHRIS DISSPAIN: Well, the alternative is that everybody looks at Brian's document and then sends comments, but that seems to me to be unnecessary clunky. All I'm saying is, if you just add the stuff that we've talked about today and get it sent out ... And if you want to ... If there's anything you're not clear about in what's in the comments that Brian and the others have made where you want to make some comments, then go ahead and do that.

MARY WONG: Got it. We'll do our best to try and be clear what's what. Thanks, Chris.

CHRIS DISSPAIN: Okay. On that basis, I think the other thing is that we also need to address, as Justine has just reminded us, the URS matter. We are running out of time but I think we need to put that onto the agenda for the next meeting, if we can, please, Berry, and deal with that. Because we need to figure it out, whether we're going to ... URS is different and we need to figure out how we're going to handle it.

Is that okay? I'm going to take that silence as a yes from Berry. Can I check in the chat? Excellent. Thanks, Berry. Okay. In that case, let's call it quits there. Let's get this document out to the list as soon as possible and let's have a see if we can knock it into shape on the list so that we can have a really final discussion on stuff for our call next Monday. Any final burning issues from anybody? There being none, let's close the call. Thank you very much, everyone. Thank you and goodbye.

MARY WONG: Thank you, Chris. Thank you, everybody.

TERRI AGNEW: Thank you, everyone. I will stop the recordings and disconnect all remaining lines as the meeting has been adjourned. Stay well.

[END OF TRANSCRIPT]