

## **IGO-INGO Access to Curative Rights Protection Mechanisms Working Group TRANSCRIPT**

**Wednesday 10 June 2015 at 16:00 UTC**

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### Attendees:

George Kirikos - Individual  
Petter Rindforth – IPC  
Phil Corwin – BC  
Val Sherman - IPC  
Jim Bikoff – IPC  
Paul Tattersfield - Individual  
Osvaldo Novoa - NCUC  
Mason Cole – RySG  
Kathy Kleiman - NCUC  
Lori Schulman – IPC  
Rudi Vansnick – NPOC  
Poncelet Illeleji - NPOC

### Apologies:

Mike Rodenbaugh

### ICANN staff:

Mary Wong  
Steve Chan  
Julia Charvolen  
Nathalie Peregrine

Coordinator: Recordings have started.

Nathalie Peregrine: Thank you very much (Obi). Good morning, good afternoon good evening everybody and welcome to the IGO NGO gLTD Rights Protection PDP Working Group call on the 10 of June 2015.

On the call today we have Petter Rindforth, George Kirikos, Ralph Sherman, Mason Cole, Jim Bikoff, Paul Tattersfield, and Phil Corwin.

We received an apology from Mike Rodenbaugh. From staff we have Mary Wong, Steve Chan, Julia Charvolen and myself Nathalie Peregrine.

I'd like to remind you all to please state your names before speaking for transcription purposes. Thank you ever so much and over to you Phil.

Phil Corwin: Thank you and good morning, good afternoon good evening in whatever time zone and whatever and planet you may be on.

This is our last call of this working group prior to meeting in Buenos Aires in two weeks from today. Do we have any updates to statements of interest?

Okay. Hearing none let's proceed and we - the main topic for this call is going to be discussing the draft letter to a yet as identified legal expert in international law to willfully provide us with some better guidance regarding the consensus views on the current scope of sovereign immunity for international intergovernmental organizations.

We did get this morning rather extensive suggested changes from Paul Keating. I asked Paul if he was going to be on this call. And unfortunately he is preparing for a legal proceeding and is unable to join us.

So we will try to give that some attention on this call because we're going to have to - the chairs are going to have to agree on a final draft before we head to Buenos Aires so we can get that process going.

So but I know George Kirikos had some separate comments on the letter. And before starting that discussion I did want one - other thing we do want to reserve the last about 10 minutes of this call to - for planning regarding our meeting in Buenos Aires and other events that the chairs and staff may be involved with in Buenos Aires related to this working group.

And so with that note why don't we get going? And just from my perspective the main point of this letter is too were going to be looking for a legal expert in international law.

The point of the letter besides posing specific questions that we're seeking guidance on is to give just enough information about the current rights protection mechanisms for the law expert to have sufficient context to give us answers that relate to the processes that now exist but not to give so much information that it takes the focus away from the main object of sending the questions to the expert.

And with that note it I'll stop talking and open it for general discussion. And why don't we - let me just look at this. Why don't we start by discussing the background section of the letter and part that's Roman Number I and then we'll move on to the next section. I think that's probably a better approach than addressing everything in the letter at once.

Now do we have any comments on the initial background?

Jim Bikoff: Phil? Phil? Hello?

Phil Corwin: Jim? Yes?

Jim Bikoff: Yes. I just want to say not to - I mean you can go through it section by section but we've gone through Paul's and George's comments.

And I think we second it. I think the letter is - gets into the weeds and I think it ought to be narrowed down to just the information that we need.

I have not had a chance to provide any written comments at this point but in reading over Paul and George's, you know, suggestions I think they're good and I think that they should be whittled down substantially.

Phil Corwin: Okay. Well it's not - it is a - it's a six-page letter at present. It's not 60 pages. I just want to note that it's not.

We can look at narrowing it down but it's not one of these, you know, massive letters that you see sometimes with working groups in ICANN.

But...

((Crosstalk))

Phil Corwin: ...given...

Jim Bikoff: (Unintelligible) maybe...

Phil Corwin: ...your expertise in this area Jim we take your comments quite seriously.

Jim Bikoff: Yes. I wonder if - I know Paul's not but maybe George can since he made specific comments on Paul suggestions maybe he can, you know, lead us through starting with the beginning.

Phil Corwin: George has his hand raised. And George why - let me suggest why don't you give us your comments first?

I'd rather on the initial draft and then we can look at Paul's letter, Paul suggested changes after that rather than be discussing things that aren't in front of us on the screen. Is that acceptable?

George Kirikos: Sure. George Kirikos here...

Phil Corwin: Okay.

George Kirikos: ...for the transcript. My main concerns wasn't really with the background material. It was more from the questions to the expert because I thought that Question Number 3 that area seemed to be kind of seeking a conclusion like seeking to get a comment on a conclusion rather than speaking facts.

Like I think we should dispute asking for facts and then find a conclusion or a recommendation based on those facts and not have a conclusion first and then try to back fill what all the facts should be to support that conclusion because that's - that would be the wrong way to go about it.

So I'd have big problems the Section Number 3 as I put in writing because it seems to be negotiating with ourselves because the IGOs haven't really participated in this process as soon, you know, what they may find acceptable.

And I was concerned about the jurisdiction aspect obviously because a registrant that has nothing to do with an IGO could be dragged into a jurisdiction that has, you know, no basis in law that, you know, has no relation to the underlining domain name or the registrant and may be forced to defend that and it would, you know, be basically supported forum shopping by IGOs if registrants have to agree to that jurisdiction.

And Paul Keating made a obviously more extensive comment. And I would support his comment, his - a proposed revision to the document.

I don't know if that can be used as the base point going forward but perhaps others who read his draft might have opinions on it. I see Jim Bikoff supports it.

Phil Corwin: Okay. Okay. Thank you George. Petter?

Petter Rindforth: Thanks Petter here, just some initial comments that we are on the right way.

It's important to have in mind that we, our working group has concluded that we does not have to change their - the UDRP of the rest as such but rather to refer to Article 6 there of the Paris Convention.

So the problem we still have and the question we have to put out is if you use the UDRP policy for instance .4K there on the mandatory administrative proceedings, availability of court proceedings where it just says that the mandatory administrative proceeding requirements shall not prevent either - well none of the parties from submitting the dispute to a court of competent jurisdiction for independent resolution before such mandatory administrative proceedings is commenced or after such proceedings is concluded.

And I think it's important to have that in mind when we put together both the initial information but especially to the questions to the external expert.

And I agree with George that we - it should be questions, not conclusions in our question to the expert.

And but I'm still not 100% sure that we should delete that part. Rather maybe if it could be rephrased. And I have to admit that I don't have at the moment the specific suggestions of that.

But it's good to have as much as possible input from the expert as this will be probably the only way we can get them external input on this specific topic as we have gotten no specific response from either IGOs or other parts.

And we can't wait anymore. We need to come to pretty soon to a time where we can make our own conclusions within our group. Thanks.

Phil Corwin: Okay thank you Petter. Yes and again the most, from this co-chair's perspective the most important question of the most relevant style work is that in the rare instance where a IGO might bring a arbitration action and well right now only the court option is only available. The court appeal is only under UDRP.

So UDRP the rare case where they win the arbitration and the register and appeals to a court of mutual jurisdiction under the UDRP rules is bringing that IGO into court exposing them to that litigation.

Is that a violation of the scope of their sovereign immunity or is it - there's something or is there sovereign immunity narrow enough that that's not a violation? That's really what we're trying to get at with this even though we ask more than that one key question.

So do any others have - well let me - we've taken comments on the background portion.

Jim Bikoff: Phil?

Phil Corwin: And George - but we do get a comment on the question. Any other comments on the original draft before we take a look at some of Paul Keating's suggestions?

Jim Bikoff: Phil?

Phil Corwin: Yes?

Jim Bikoff: It's Jim Bikoff again. Would it be - might it not be better to ask the very narrow question that you mentioned and then have maybe some background information that would be submitted with it rather than doing it in the form that it then if that's really the question we want the answer to?

Phil Corwin: Well I'm not - you know, my concern with that Jim and, you know, it's - this is a answer of first impression is that we're going to get one shot to get something back from legal experts.

So, you know, if we have a few questions and there's only half a dozen at present why not ask them now? Why ask just one question?

Jim Bikoff: Well I can tell you one reason. We've been involved in getting expert opinions on a number of cases.

And sometimes when we go to the academics for an opinion and we ask a lot of questions we get back a very long scholarly, you know, 20 or 30 page opinion.

And sometimes it answers the one question and sometimes it's vague on the answer but goes into a lot of other things that are extraneous and not relevant.

So I mean it seems to me focusing on what we really want and maybe then having, you know, subsidiary issue statements or questions might be better than just throwing out the small number of questions we're asking.

Phil Corwin: Okay. But let me give you an example. I think question two asks how do IGOs handle standard contractual clauses for all kinds of other services that require them to submit to a particular jurisdiction if there's a dispute? I think that's useful information. And it might not be covered in a single rifle shot question.

Jim Bikoff: Well I'm not suggesting to get rid of the questions but to, you know, to have the primary question the one that we want answered and then maybe to have sub questions that would be such as this and would not invite extensive comment.

Phil Corwin: Okay. Well I think we can also address that by under Roman 2 where it says questions we can have an introductory paragraph which makes clear that we're asking for concise targeted answers and we're not looking for any law review article or a treatise on the subject.

Jim Bikoff: I think that would be helpful because Question 2 one that we're looking at I mean that could involve somebody looking at a whole bunch of countries for instance for the practices where IGOs are based and might involve a very long review of individual country practices.

So I think to the extent we can narrow it and make sure they understand that what we want an answer to question one and that there are some subsidiary questions that might be helpful in arriving at that I think that would help out in avoiding a long treatise back.

Phil Corwin: Okay, good suggestion Jim. So basically start with a key question and make clear that the others are subsidiary and have a preface which makes clear that we want concise targeted answers and not long rambling on the other hand and this way in this country and that way in that country because I think we're more looking for what's the consensus kind of view to the extent there is one.

Jim Bikoff: Exactly.

Phil Corwin: Okay?

Jim Bikoff: Thank you. Yes, thanks.

Phil Corwin: Okay. Any other comments on - oh, I see Petter's hand up. Let's hear from Petter.

Petter Rindforth: Petter here, just an additional question. You meant that we should use Question Number 1 as the main question and then we can use the rest of the questions as additional in the same document or you're looking for some different main topic, main question so to speak just to clarify?

Jim Bikoff: So that's directed to me Petter.

Petter Rindforth: Yes.

Jim Bikoff: It's Jim Bikoff again. If that's directed to me I think actually Phil had phrased the question that we really want the answer to. And that to me would be the question that we ask.

And the other questions could be tailored to, you know, the subsidiary questions that could assist in getting an answer to the main one.

And Phil maybe you could rephrase it because I forgot exactly how you phrased it but it sounded to me to be the one that we needed the answer to.

Phil Corwin: Yes. I'll try to repeat it as accurately as I first expressed it which is basically the question is in the rare instance where a IGO brings a UDRP when's the arbitration and the registrant appeals to a court of mutual jurisdiction as defined in the current UDRP would that be - would the IGO being exposed to that court action violate the scope of their sovereign immunity as it's currently viewed or is that not violating it because it's outside the generally recognized scope of immunity for IGOs?

So I think I put it a little more succinctly the first time but that's the main sentiment there?

Jim Bikoff: Yes, I agree. That sounds like the main thing we want answered.

Phil Corwin: Yes, because it's the main unknown that's holding up this group reaching final stages of our work.

Jim Bikoff: Exactly.

Phil Corwin: Okay. Staff can we put - I don't see any more hands on this draft. Can we put up Paul's suggestions and maybe spend a few minutes just getting a general sense of what he's adjusting for changes so we get a little bit of - so the chairs can get a little bit of feedback from this group before we work with staff to put this letter in final form?

Mary Wong: Phil, this is Mary. Sure we're putting the document up now, but can I just make some general follow-on observations from...

Phil Corwin: Sure.

Mary Wong: ...Jim's, yours and Petter's comments?

And I think that in putting out this draft the chairs the staff had that in mind. So I'll - what we thought was obviously instructed in the legal expert we probably would want to further emphasize that we're looking for concise specific answers.

We're not looking for, you know, legal research into lots of different countries or anything comparative of that nature.

But that in terms of the specific question to be answered and Phil as you've raised it, you know, we kind of again had a more foundational approach which is really that given where we are in the research that we've managed to do today whether the understanding that we have of the current international law position is right such that it leads to the question Phil is asking.

Because really where we're focusing on is the fact that in agreeing to a mutual jurisdiction requirement there is the ability for say the losing respondent to go to a national court whether we call it for purposes of an appeal in a UDRP or really at any time in the process irrespective of the proceedings.

So we will work with the chairs to make that the emphasis and as Jim says maybe put that up as the main question or questions with the others being more specific sub questions.

And Phil that was also I think going to be a comment that the staff would make about some of Paul's suggested revisions as well which everyone should now be able to see and scroll on their screens. Thank you.

Phil Corwin: Okay, thanks Mary. And before we get into this I just want to make one comment. You know, George posted in the chat room that note incorrectly that IGOs don't have to use the UDRP or the - or the URF. They can use whatever else is available.

But as far as I know the only other thing available will be going to court. And that's we have been tasked with making sure that they have access to a non-judicial means of protecting their trademark rights and their exact names and acronyms.

So George is correct. But I think for our group we've got to, you know, our task is to come back and say either that the current mechanisms are available and with no tweaks or minor tweaks or perfectly suitable for IGOs or come up with something different so let's get into Paul's letter here.

Let's start on Page 1. He's got a little bit more info about the UDRP with links and the URS.

Those are not substantive changes, just providing links for the - whoever gets this memo.

And in the paragraph at the bottom of the page he gives some more information about UDRP and URS and notes that they both have clauses saying that they can be suspended or terminated if one of the parties files litigation.

He talks a little bit about the providers of the arbitration services and a bit of clarification on what the complaint and has to prove.

Some footnotes here. I'm not going to get into the footnotes unless somebody has a concern about one of them.

So basically on the background he's just provided some more, a little more background information and the links to further information if the person getting the memo wants to look at the actual text of the UDRP or URS.

Changes and under the issue he changes the language a little bit about the key question with the mutual jurisdiction question. He quotes the definition of what it is in both the UDRP and URS which is probably useful adds some hyperlinks in the footnote.

So now I'm on Page 3 and I do note that Paul's changes - well, without being accepted they increase the length of the letter to nine pages.

I have a feeling once they're, if they were accepted we'd be looking at a six or seven page document so not particularly different than the length of this.

I wanted to note that given the comments that we might want to make it shorter.

At the end of the first full paragraph he asked his version of the key question we seek understanding as to whether but for the requirement to feel like a mutual jurisdiction immunity would apply shielding the IGO from litigation arising out of in connection with their asserted trademark. That's a different way to put central question.

We struck out some reference to difference between official and commercial actions down at the bottom of that page.

But actually but then he put in revised language right after that. So a lot of this is rephrasing what's already in the letter.

Next page, Page 5 a little bit about the Paris convention. Next paragraph is quite a bit of changes at the bottom of Page 5.

And then he gets into the questions and there's some rephrasing of them. So that's kind of what he - you know, so not radical surgery, a lot of rephrasing difference in nuance to some extent.

We heard from Jim that folks at his firm had reviewed Paul's suggestion that they generally supported them. I think George has indicated that - Mary I see your hand up. Is that from before or is that for now?

Mary Wong: Actually it's a new hand. So I did want to make a comment but...

Phil Corwin: Okay. Why don't you comment and then let's open it up to general. Let's open up Paul's suggested changes to general discussion after you speak with a recognition that it just came in this morning so working group members haven't had a huge amount of time to consider all of it.

Mary Wong: Right. Thank you Phil. And, you know, even though Paul is not the call I think I want to thank him for taking the time to make these suggestions and George for making his suggestions as well.

For now we have two general comments about that part of the document that you've just reviewed for us Phil. And that is in terms of the commercial transaction language that was rephrased.

I think we had put in the original language with you and Petter because if you sort of looked out of the trademark lens the public international law distinction is really between public acts. So for example acts of a public agency and so-called private acts which would be the commercial transactions.

So our suggestion there would be that however it's rephrased that if we are going to go to international legal expert on international law principles that we somehow keep in that distinction between public and private.

Phil Corwin: Right.

Mary Wong: And then the second comment that I had on...

Phil Corwin: And what page is that on where - I mean, where Paul made those changes?

Mary Wong: That would be I believe the bottom of Page 4.

Phil Corwin: Yes.

Mary Wong: Or yes that part where the paragraph starts with all bold language of no universal legal rule.

So because we wanted to indicate to the legal expert that our group does have, you know, perhaps a basic but at least a fundamental understanding of what we think is the position in international law that's why we put in the public-private distinction.

And along the same lines the second comment that staff would have is that even though we are looking at, you know, the UDRP which starts off with a premise of trademark rights from the IGO perspective one of the problems that they have with the UDRP is just this insistence on trademark rights.

So whatever the process is that we end up with no changes and new processes, et cetera, et cetera, it seems to us that the emphasis on there being trademark rights and it goes through part of this document may be somewhat distracting or inaccurate.

In other words, you know, we're looking at a process that deals with immunity. And so the emphasis on trademark rights seem to us that it might throw things off a little bit especially as it talks about trademark rights under say Six Tier which probably could be expressed differently.

So those other two comments staff had up to this point Phil. Thanks.

Phil Corwin: Okay. But I'm a little - I'm raising my hand verbally. I mean we're - we've been asked - we've been tasked with basically saying, you know, do - does the current rights, you know, under trademark rights arbitration is that's they're all they're about is UDRP and URS about trademark rights. And we created a new CRP. It would also be about trademark rights.

So we're - that's what we're talking, we're talking about the rights of IGOs to protect their exact name and any acronym thereof in the domain name system against trademark infringement or against the rights that have been created. And we've decided that they have standing based on using Articles Six Tier to gain protection for their names and acronyms in national trademark system.

So I think we've got to - I don't know how we send questions which don't make clear that we're talking about immunity in the context of IGOs asserting that their trademark rights or their rights under Article Six Tier or their right to

protection in trademark systems has been abridged somehow and they're looking for a curative response.

Mary Wong: Phil can I just respond...

Phil Corwin: Yes.

Mary Wong: ...really quickly?

Phil Corwin: Sure.

Mary Wong: And I am not disputing any of that clearly. I think it's just more the phraseology. And especially we're going to, you know, say an academic or something like that they would be very, you know, specific in using words like rights.

And so for example where we are going with the IGOs is that we are not requiring that they must have national trademark rights because that would be a normal UDRP for example. We're talking about standing.

But that secondly, you know, under Six Tier, Six Tier itself doesn't confer trademark rights per se.

So I think all we're suggesting is that when we make those references that we probably are more specific in now we describe the types of protections that IGOs get.

Phil Corwin: All right, well if staff or anyone else can think of a better term than trademark rights let's leave that open. We can substitute that or else we can add a sentence somewhere in this which makes clear that when we say trademark rights we mean this and spell out very precisely what we're talking about so that the person that gets this memo does not get confused in some way and in that confusion provide answers which are - would be different if they really

understood exactly what we're talking about in terms of trademark rights for IGOs.

That sound reasonable?

Jim Bikoff: Can I...

Phil Corwin: Yes Jim?

Jim Bikoff: Can I interject something? We referred as Mary will probably remember when we were doing the Red Cross IOC PDP we referred to names and acronyms as well as trademarks because almost - well many IGOs have registered trademarks like the World Bank.

If they don't there's still names and acronyms that are protectable under trademark law, under common law rights in the United States and in Great Britain, et cetera. So I mean you may want to expand that definition.

But basically I mean most of the IGOs I know that have been involved in UDRPs and other enforcement measures do have trademarks.

Phil Corwin: Right. And Jim clarifying question, are those trademarks in there names and acronyms, organizational name and acronym which is somewhat Six Tier provides protection for or are they other trademarks?

Jim Bikoff: I'll use the World Bank as an example since I represented them in the past. They have registered trademarks for World Bank and for a couple of designs that go with their name.

Phil Corwin: Okay. And by - let me make an observation and see the (group). And by registering those trademarks in whatever jurisdiction or jurisdictions they've registered them in they've made themselves subject to the national law that

jurisdiction in terms of the fact that someone might object to their registration or they so...

Jim Bikoff: Exactly.

Phil Corwin: ...they've implicitly submitted to national jurisdiction ever time they make a trademark registration.

Jim Bikoff: Exactly.

Phil Corwin: Yes. That's what I thought, okay. Do we have other comments now on any of Paul's suggested revisions or do people want to take that - given that we just got up this morning and the rather extensive let me suggest that if we don't have comments now that we send around a note to all working group members right after this call ends asking for any comments pro or con or suggesting additional nuances on Paul's suggested modifications to come back to us within 24 hours of end of this call so that we can get - we give everybody on the working group a full chance to respond to Paul's suggestions but would leave enough time before everyone's leaving for Buenos Aires for the co-chairs and staff to reach agreement on a final form of this questionnaire?

And Mary we're not going to be - let me ask Mary a question. We won't be using this questionnaire until we actually locate - till we actually get the funds and locate someone to respond to this. So there'll still be some time after we agree on what we regard as a final form between it - between that agreement and actually going to wherever's going to be asked to respond to these questions. Am I correct in that assumption?

Mary Wong: Phil that's a good question. What we're trying to do it internally is to, you know, basically use the funds from this budget cycle.

Phil Corwin: Yes.

Mary Wong: So I'll need to look at how we do that. But if we actually have more or less of a, you know, almost finished draft it allows us to start the, you know, internal, you know, requests so forth before the end of the financial year.

So I think the answer to your question is a qualified yes.

Phil Corwin: Okay. And the financial year when does that end? Is that in the end of December?

Mary Wong: Actually no, it's the end of June. So...

Phil Corwin: End of June, okay.

Mary Wong: ...Steve and I will need to yes, we would need to get it in the system before then but...

Phil Corwin: Okay.

Mary Wong: ...yes.

Phil Corwin: All right. So let me, my proposal here and I'll - let me just state this and I see (Lori)'s hand up, is so we give everybody 24 hours to comment on Paul's suggestions or make further suggestions of their own. On the original draft we work with staff to get a what we regard as hopefully a final draft.

This week we circulate it one more time. And by the time, you know, by next week we lock it down so that Mary and her colleagues can try to get us that funding before the window closes at the end of the month.

And Mary I assume if we get that, you know, if later on we decide we want to change a sentence or something after the funding is locked down or before

the, you know, before the expert is identified and the memo is sent we can always make a minor modification later on right?

Mary Wong: Oh yes. I don't think that will be a problem. I think we just want to make sure that the request is processed in our ICANN system so that we don't get any more delays or push back.

Phil Corwin: Okay. Okay so our aim is to get hopefully by the end of this week a final draft letter that staff can use for the purpose of obtaining funding with the understanding that it can be tweaked between the time funding is obtained and the letter is actually used.

Okay. (Lori) I see your hand up. I am not hearing you so let me suggest you check your mute button.

(Lori) you trying to speak because we're still not hearing you?

Jim Bikoff: Phil?

Phil Corwin: Yes?

Jim Bikoff: While we're waiting for (Lori) I just wanted to mention that I think the most important thing at this stage because I think as you say the questions are not going to be used until we have an expert who's going to opine on the question.

The most important thing I think is defined an expert who would fit the bill and who doesn't have preconceived notions on these issues.

So it would be my recommendation that we start looking at possible subjects who could be experts and get resumes from them or try to get some information on their backgrounds who they represented, you know, what their

writing show and so on so that we can find somebody who truly is an independent expert for the opinion.

Phil Corwin: Yes, a good idea Jim. And Jim let me see the agree in the call earlier today between the co-chairs and staff. Our view was that we're looking - we want - we're not looking for trademark law expert. In fact that might confuse the answers.

We - what we want is an expert on the current state, you know, the current consensus views on the scope of sovereign immunity for IGOs. That's...

Jim Bikoff: Exactly.

Phil Corwin: ...the expert law...

Jim Bikoff: I couldn't agree more.

Phil Corwin: Yes. Okay, I don't see any hands up and we're just about at a quarter to the hour before the end of the call. So unless someone immediately speaks up and raises their hand and has further comments on this document I'd like to move into discussing what's going to happen in Buenos Aires for this working group.

I see George's hand up. George go ahead.

George Kirikos: Yes George Kirikos speaking. Do we have actually any responses yet from the IGOs? We've obviously been waiting week after week to see if we've got any response from them. Any updates on that?

Phil Corwin: My understanding -- and then staff correct me if I'm wrong -- is that we have received no response and our expectation is that we will not be receiving a response prior to the working group session in Buenos Aires. Is that correct staff?

Mary Wong: Yes Phil and George, that is correct that the IGOs have told us that they will not be giving us a response before Buenos Aires.

Phil Corwin: Okay. And they understand that we're going to move forward rapidly after Buenos Aires I assume?

Mary Wong: We have informed them that the working groups' timeline and intention has been and will be to wrap up our recommendations before the Dublin meeting yes.

Phil Corwin: Okay good, all right. Well they're always welcome to submit but we've been extremely patient with them as we have been with the GAC.

The GAC did respond to some extent. But we can't wait forever on those particular groups. So Mary let me - why don't you quickly brief us on what our expectations are in Buenos Aires on the working group meeting is, while we have participation in it from obviously everyone at the meeting is welcome to attend.

We do - I believe we expect perhaps some attendees either from the GAC or IGO. And also the co-chairs may have some small private meetings with those parties during the meeting. But can you provide us with some more detail on all of that?

Mary Wong: Sure to the extent that I can add to what you said. So for everyone's information and we'll put this information up to the list as well, the working group session is scheduled for the Wednesday. And it will be Wednesday morning Argentina time for 90 minutes from 10:00 AM local time.

And that schedule is to accommodate a number of potential conflicts but also time to start after the board and the GAC meeting.

The hope is that, you know, we will therefore get more community attendees who may be interested in the issue and also specifically IGO representatives who may be in Buenos Aires. We know that at least one or two of them will be there.

I don't know that we will get any GAC members in attendance not because they're not interested but because Wednesday is the day that the GAC, you know, closes itself up to draft its communiqué. But there's I guess a limit to what kind of sessions we can have.

So the idea is discussed with the co-chairs earlier this morning is to make this a community facing session.

And hence to the extent that in your respective groups and networks you know that there are people who may be impacted or affected or concerned about the issue if they can attend so that we can do some information sharing from our end but also to give feedback on work that we have done to date from their end. The thinking is that that would be really helpful.

So Phil and Petter I don't know if that's what you had in mind. And obviously we will have the usual remote participation facilities for those who are not going to be on the ground as well.

Phil Corwin: Okay. Anyone on the call have any questions about the format for Buenos Aires?

Jim Bikoff: Phil I don't have a question about Buenos Aires except for the extent that it would be interesting number one to know which IGOs will be represented in Buenos Aires in advance since I know there's probably a list that ICANN has of attendees now.

And secondly the letter that went to the IGOs, can we all get a copy of it? I didn't see anything that went out to the IGOs from - as a reminder.

And thirdly this is a very peculiar PDP since - and every other one I've served on and others that I know about the different sides that have positions in the PDP are very active in promoting their advocacy on the issues such as in the PPSAI which Mary knows about.

You know, we have very active people who are battling over terminology and how much proxy and privacy providers need to disclose and when they need to relay. So you've got positions that are being brought forth by both sides of the debate.

Here it's sort of one-sided. We're doing all the heavy lifting and we have nothing from the IGOs to suggest that they're really interested in protecting themselves.

Phil Corwin: I can't disagree with a thing you just said Jim. And it is - I think it's frustrating. I know the chairs are frustrated by the lack of participation.

But, you know, it is what it is and we're going to do the best job we can without that. I think it'd be better if they provided input. I don't know why they've taken this very standoffish position.

But when we issue a final report it will be clear that both the GAC and IGO were offered extensive opportunities for input and they largely declined that so particularly the IGOs.

In regards to the GAC I just want to mention that the co-chairs are hoping to have at least a short private meeting with the chair of the GAC and possibly some other GAC members who are interested in the work of this working group.

And if that does occur we'll certainly brief everybody on what takes place at that meeting. But it's not locked down yet. Petter?

Petter Rindforth: Yes thanks. I just wanted to agree with what you just said and again focus on that.

They have their possibility for now and until Buenos Aires. But after that we will - we have to and we will make our own conclusions.

And if they have not come up with any specific comments before that unfortunately we also have to conclude that there are topics that aren't so important.

So what I think it's nice within our working group internally is that we could so quickly come to our own clear conclusions.

And now we haven't just discussed whether some work should be before or after otherwise in our comments but otherwise we have a very good group.

What we need is the external so to speak comments. Thanks.

Phil Corwin: Yes. Thank you Petter. And I - the thought just occurred to me that we're somewhat in the position of an examiner in a UDRP where the registrant does not file a response and they're trying to interpret the facts before them in the best possible light for the registrant but absent the response obviously.

You can only do so much if people with concerns are not going to bring their point of view before you. Mary?

Mary Wong: Okay thanks Phil. And I wanted to go back a little bit to Jim's comments and follow-up.

I mean obviously I can't speak for the IGOs but, you know, my sense from just being support for this group and Jim we were participants and in our staff support for the earlier IGO PDP.

I think there's a broader context to this and that would include I think some of the experiences if you like of the IGOs in the prior PDP were they ended up filing a minority statement.

But perhaps more importantly that there are discussions within the GAC that include the IGOs as their observers.

That's in the broader context of all the protections for IGO names and acronyms. So to that extent what we're doing in our working group is only part of that discussion which includes things like the trademark clearinghouse notices and so forth.

So on that as I think we'll recall I think it was after the Los Angeles meeting that the small group of IGOs was formed to try to expedite those overall discussions.

And so that's in some way why our requests have gone to that small group.

So perhaps it's a bit of a one-off but I just thought for the benefit of those working group members who may not have been following the entire saga that maybe this context would be helpful as to why the IGO's input or participation such as it is, is framed this way for this particular PDP. Thanks.

Phil Corwin: Sure. Thanks for that perspective. Okay...

Jim Bikoff: Can I replied to Mary?

Phil Corwin: Jim, you can always reply. Go ahead.

Jim Bikoff: Hi. No I was just going to say that may be the case. But still there's an opportunity here for the IGOs to come forward. They were given specific

questions and come forward and answer them if this is an important issue to them.

And I, you know, not seeing any answer indicates to me that for one reason or another they're not responding.

And they understand, I'm sure they understand the consequences because they were active as you say in the prior PDP and they have other issues going on. But that doesn't excuse a lack of response to this PDP.

Phil Corwin: Okay? All right it's five minutes before the hour. We've pretty much run through the agenda. Are there any final comments or questions before we wrap up the call today?

I'm not hearing anything. I'm not seeing any hands up. So let's wrap it up.

Again let's have staff send out a notification right after this call ends asking everyone to get in their comments on the original draft or on Paul's suggested changes within 24 hours.

Following whatever further input we get the co-chairs will work with staff to I think we heard on this call pretty broad agreement generally with the nature of the changes Paul has made as well as some urging of that the letter be shortened somewhat, that the memo be shortened somewhat if we're able to.

So we'll look to have a final - a final draft as possible that staff can use for their purposes of funding by the end of the week and certainly no later than the weekend so that we can circulate that by Monday at the latest.

Hopefully it'll be generally acceptable. We've learned that we can tweak it further once we actually lock up funding and find an expert who's willing to take on these questions.

So it's going to be a final draft for the purpose of going after the funding for the expert. And we still would have some leave to tweak it a bit before it actually goes to the expert whoever that might be.

So one last chance, any other comments or if not we'll end this call and look forward to seeing many members of the working group in Buenos Aires and hope that those who are not planning to attend to travel to Argentina will join in the remotely for our session in Argentina which is two weeks from today from 10:00 to 11:30 AM Buenos Aires time which is one hour ahead of East Coast US time.

So with that I think we end the call. Thank you.

Jim Bikoff: Thanks.

Man: Thanks Phil.

Phil Corwin: Bye-bye.

Mary Wong: Thanks Phil. Thanks everybody.

Woman: Bye-bye.

Man: Bye.

END