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# Policy Development Process: International Governmental Organization-International Non-Governmental Organization Access to Curative Rights Protection Mechanisms

## **WHAT CAN I EXPECT AT ICANN59 IN RELATION TO THIS TOPIC?**

The Policy Development Process (PDP) Working Group (WG) will be holding an open meeting on **Tuesday, 27 June (Day 2) at 10:30-12:00**. At this session, the WG plans to discuss its likely final recommendations for this PDP with the community, prior to finalizing the text of these recommendations for its Final Report. All community members are welcome to attend this session, especially those with expertise on the topics covered by the WG's Initial Report.

## **WHAT IS THIS ABOUT?**

This PDP was initiated in June 2014 by the GNSO Council to consider whether existing curative rights mechanisms – namely, the Uniform Dispute Resolution Policy (UDRP) and Uniform Rapid Suspension (URS) procedure – should be modified to address the needs of International Governmental Organizations (IGOs) and International Non-Governmental Organizations (INGOs) in relation to protection for their names and acronyms at the second level of the domain name system, in both existing and new generic top-level domains (gTLDs).

## **WHY IS THIS IMPORTANT?**

Protecting the names and acronyms of IGOs and INGOs at the top and second levels has been a long-standing issue over the course of the New gTLD Program. The GNSO had previously recommended certain protective measures to the ICANN Board. However, those recommendations that pertained to IGO acronyms and some specific names and acronyms of the Red Cross movement differed from the advice provided by the Governmental Advisory Committee (GAC) to the Board. In early 2014, the Board adopted those of the GNSO's recommendations that were consistent with GAC advice. Since then, work has continued in relation to reconciling the inconsistencies between GAC advice and GNSO-approved policy on IGO acronyms and specific Red Cross identifiers. A facilitated dialogue between representatives of the GAC and the GNSO took place at ICANN58 on these inconsistencies that touched on both preventative (i.e. before a third party registers a domain name) and curative (i.e. following a third party's domain name registration) aspects of protection.

The scope of this current PDP is not dependent on the outcome of those discussions that focus on the issue of preventive rather than on curative protections. This

WG had published an Initial Report for public comment in January 2017, and has recently completed its review of all public comments received as well as taken into account relevant portions of the GAC-GNSO facilitated dialogue at ICANN58.

### **WHAT IS THE CURRENT STATUS OF THIS PROJECT?**

The WG's charter directed the WG to consider: 1) whether the UDRP and URS should be amended to resolve the problems faced by IGOs and/or INGOs and if so in what way; or 2) if a separate, narrowly tailored dispute resolution procedure should be developed to apply only to IGOs and/or INGOs. The WG's preliminary recommendations, as published for Public Comment, essentially recommended that no changes be made to either the UDRP or URS and that no specific new process be developed for IGOs. The WG also developed some specific recommendations for IGOs, including the basis upon which an IGO may demonstrate standing to file a complaint under the UDRP and URS, and the issue of IGO jurisdictional immunity. Community feedback was received during the public comment period on all of the WG's preliminary recommendations.

### **WHAT ARE THE EXPECTED NEXT STEPS?**

The WG will prepare its final recommendations and Final Report following the community discussions at ICANN59. It hopes to submit the Final Report to the GNSO Council for the Council's review and action by ICANN60.

### **HOW CAN I GET INVOLVED?**

The open community session at ICANN59 is an excellent opportunity to contribute to shaping the final recommendations for this PDP. In addition, and although it is at a late stage in its work, the WG continues to be open to anyone; please contact the GNSO Secretariat at [gnso-secs@ICANN.org](mailto:gnso-secs@ICANN.org) to be added to the mailing list.

### **MORE INFORMATION**

- WG Initial Report containing preliminary recommendations: [goo.gl/mg60wl](https://goo.gl/mg60wl)
- Public Comment of the WG Initial Report: [goo.gl/g5Hc0x](https://goo.gl/g5Hc0x)
- PDP Webpage: [gnso.icann.org/en/group-activities/active/igo-ingo-crp-access](https://gnso.icann.org/en/group-activities/active/igo-ingo-crp-access)
- WG Workspace: [community.icann.org/x/37rhAg](https://community.icann.org/x/37rhAg)
- WG Charter: [gnso.icann.org/en/drafts/igo-ingo-crp-access-charter-24jun14](https://gnso.icann.org/en/drafts/igo-ingo-crp-access-charter-24jun14)

## **BACKGROUND**

IGOs and INGOs face certain challenges in fully using the UDRP and URS for a number of reasons. IGOs see the Mutual Jurisdiction requirement for both processes as jeopardizing their jurisdictional immunity status. For both IGOs and INGOs, the fact that the UDRP and URS were designed as protective mechanisms for trademark owners means that they cannot use these procedures unless they also own trademarks in their names and/or acronyms. Both types of organizations are also concerned about the cost involved in using these procedures, which means diverting resources and funds from their primary missions. The GAC has issued advice on the topic which the WG continues to take into account in its deliberations.

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