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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 ICANN61 IN RELATION TO THIS TOPIC?**

The Policy Development Process (PDP) Working Group (WG) will be holding an open meeting on Wednesday, 14 March, from 17:00-18:30. All community members are welcome to attend this session, especially those with expertise or interest in the topics of domain name dispute resolution and the use by international organizations of these processes.

## **WHAT IS THIS ABOUT?**

This PDP was initiated in June 2014 by the GNSO Council to consider whether existing curative rights mechanisms at the second level of the domain name system (DNS), namely, the Uniform Dispute Resolution Policy (UDRP) and the Uniform Rapid Suspension (URS) dispute resolution procedure, should be modified to address the needs of International Governmental Organizations (IGOs) and International Non-Governmental Organizations (INGOs). IGOs and INGOs have highlighted certain difficulties they face in using these mechanisms to protect their names and acronyms.

## **WHY IS THIS IMPORTANT?**

Protecting the names and acronyms of IGOs and INGOs at the top-level and second-level of the DNS 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 did not address the topic as to whether existing domain name dispute resolution procedures provided adequate protection for IGO and INGO names and acronyms. The GNSO Council subsequently tasked this 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.

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

The WG's preliminary recommendations, as published for public comment in January 2017, 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, as well as the issue of IGO jurisdictional immunity. Community feedback was received during the public comment period on all of the WG's preliminary recommendations. The WG has completed its review of all public comments received, including input from the Governmental Advisory Committee (GAC), a number of IGOs, and the broader ICANN community. As a result, the WG has modified some of its preliminary recommendations. It is currently considering whether it will be possible to reach consensus on various policy options on the remaining issue under consideration. The issue concerns the situation where a losing registrant files a judicial proceeding against an IGO who may wish to claim jurisdictional immunity in that court.

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

The WG is in the concluding phases of its work and hopes to complete its Final Report after ICANN61.

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

The open community session at ICANN61 is an excellent opportunity to provide input to the WG concerning the remaining issue under discussion. While it is in 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: [go.icann.org/2o1](https://go.icann.org/2o1)
- Public Comment of the WG Initial Report: <https://go.icann.org/2C0tY2u>
- PDP Webpage: [gnso.icann.org/en/group-activities/active/igo-ingo-crp](https://gnso.icann.org/en/group-activities/active/igo-ingo-crp)
- 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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