

ICANN Transcription
IGO INGO PDP Working Group on Red Cross Names Call to Discuss
Recommendations
Wednesday, 12 September 2018 at 1300 UTC

Note: The following is the output of transcribing from an audio recording of the IGO INGO PDP Working Group on Red Cross Names Call to Discuss Recommendations call on the Wednesday, 12 September 2018 at 13:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <https://audio.icann.org/gnso/gnso-red-cross-recs-12sep18-en.mp3>

Adobe Connect Recording: <https://participate.icann.org/p6y990qikgd/>

Attendance is on the wiki page: <https://community.icann.org/x/aQCrBQ>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:

<https://gnso.icann.org/en/group-activities/calendar>

Coordinator: Recordings have started.

Andrea Glandon: Thank you. Good morning, good afternoon and good evening and welcome to the call to discuss Red Cross recommendations held on Wednesday, the 12th of September, 2018 at 1300 UTC.

In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. At this time I am not showing any participants who are only on the audio bridge. I would like to remind all to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this I will turn it over to Thomas Rickert. Please begin.

Thomas Rickert: Thanks very much and good morning, good afternoon and good evening. This is Thomas Rickert. I'm the Chair of the Reconvened PDP Working Group. And I'm very glad that we - that we arranged for this call to take place and I'd like to thank staff for doing some ground work for this. And as you know, we have scheduled this call to discuss our report and particularly to discuss the destiny, if you wish, of the recommendations that the Reconvened PDP Working Group came up with. The deliberations at the Council level have been paused because of a deferral that you've asked for and I think it would be good of us to do a couple of things, of which you see in the agenda.

So what we plan to do today is give you a little bit of background on the overall effort and why we are where we are, then if you want to, I'm not sure how many of you have taken a deep dive into the final report and the recommendations, we can give you an overview of that, and the third item we should discuss what we can do in order to reconcile potential differences there are.

So I think that everyone is familiar with each other on this call so I would suggest that we take the roll call from the Adobe room. If you have updates to statement of interest you know, although this is an informal call, please do let us know for transparency purposes or type that in the chat. But other than that I suggest that we dive into substance immediately.

So you will remember that we've been asked by the GNSO Council to reconvene as a working group. There has been an initial effort that came up with the final report in 2013 on the protection of certain strings for IGOs and particular the Red Cross and Red Crescent movement. During those deliberations, some protections have been granted in terms of reservations for a couple of exact match names, and also there have been granted protections where the - with the notification service according to the Trademark Clearinghouse.

Towards the very end of the working group deliberations, there has been formal GAC Advice that there should be stronger protections for traditional identifiers for the Red Cross Red Crescent movement and National Societies. And there has been - we will lend it with the situation where the GNSO recommendations were clashing with GAC Advice, and then everything was basically on hold for a couple of years and lately the GNSO Council has asked us to revisit our recommendations and to look at very narrowly scoped questions which we did and we came up with recommendations, as you see in our report, on which you have commented.

Now I think it's important to note that your group has participated actively in the original PDP Working Group's work; your group did not like the outcome, i.e. granting special protections way back when. So there has been a minority statement in the 2013 report with which you and there has been minority statements by others, have expressed the discomfort with granting special protections to special groups.

So this minority statement can still be found in the original 2013 report. Nonetheless, when the report came to the GNSO Council level, it was unanimously accepted and I think that that the important information - or at least I hope you find it relevant for this discussion, because a clear distinction was made between the working group deliberations, the outcome of the working group deliberations and what's being discussed and ultimately voted upon at the GNSO Council level. And that has to do a lot with the role of the GNSO Council and at least the way I and a couple of other folks in the community understand it.

So while there was quite some opposition to the recommendations in 2013, and these are on the record, the Council has - and I think it was Ed Morris at the time, and, you know, I remember sitting in this big, big room and waiting anxiously for the GNSO vote to be taken and then I was quite pleased that there was unanimity by all councilors to vote our report up. And Ed Morris said, "I really hate," I think those were the words he was using - "I hate the

recommendations, but the PDP Working Group was following the process as it should and therefore we vote yes as - at the Council level on the - on what the Council's role should be, i.e. not to rehash discussions at the working group level but to check as a steward of the policy development process whether due process was followed.

And, you know, maybe that - or I hope that you agree that this distinction is also relevant for what we see today. So I have seen in your public comment that you raised legal concerns, we can go through all of them. Yet I think it's important to remember that it is very well possible to be in total disagreement with the outcome, with the substantive outcome of the report and yet give it blessing at the Council level.

So I just wanted to share this with you by means of introduction. And I see that Farzaneh's hand is raised, so Farzaneh, please go ahead.

Farzaneh Badii: Thank you, Thomas, for that background. (Unintelligible) it is my side. Okay, all right, so basically I understand from your comments that GNSO Council should just look at whether the PDP has followed the process and (unintelligible) actually just the process wise it's fine and doesn't really - Thomas on what - Thomas, on what is in the recommendation. The problem that I raised, and I see in this - in these recommendations of this group is first of all, when they respond to our public comments, the answers are not convincing, they're not well elaborated and they're defensive.

Of course they don't have enough time and they're at the end of it, and all that is - I understand those reasons. However, when we do public comment, the public comment is not for just, you know, decoration or just, you know, give us a sense of a feeling of democracy, but it's also to see answers and also to - if the answers in the public comment were convincing, were well elaborated, were something that, you know, onset we can consider and then we say, okay, so we have our reservations but they have responded, we are fine with it. And I see that - I see that Mary says that it's important that the

Council is sure that the (unintelligible) follow the relevant process, that's not necessarily the only consideration, great.

So it's not only about process then. I'm sorry, I don't know all the rules, but anyway, this is like one of our concerns. Our public comment responses were defensive, so for example, when we say it's not on the legal basis, they say, oh no, but it is on the - it's based on legal basis. So for example, - for example they also say that we respect a principle of protecting the freedom of expression, have given serious consideration in the context of the finite and very limited nature.

But then they say that there is another point that they don't say how they consider this and also we have a problem with the report itself, which has a couple of recommendations that are very concerning. Now, you might just tell me that I am wrong and my interpretation is wrong, that I suggest that the wording be clearer because well I have looked at the report, I read the report several times, and I kind of understand ICANN by now and the issues. So if it's not clear to me then it - and open to interpretation then that would be (unintelligible).

The other - the recommendations that sets bad precedents. There are two aspects, there is allowing addition to a finite list to happen without going through another PDP. How is that a finite list if you can't add to it without going through to a PDP? And the other thing is you referenced that there are legal bases for - more or less that there are legal bases for such protection and we disagree. I know that you have referenced several provisions, I think one about emblem that came into effect in 2017, but I am at loss to make a connection between emblem and words.

The other thing is that - and I have to add - there's a clarifying thing, the document is very - the recommendation is very careful not to say that based, not to directly say that are based on an appropriate legal basis but it says this section summarizes the deliberations of the WG on what can constitute an

appropriate legal basis upon which to grant permanent protection in the form of reservation for the names of the Red Cross blah, blah, blah.

This text here does not refer to constituted legal analysis of the applicable international and national law and should not be referenced in that regard, great, but no, we don't think there is legal basis and we think this is dangerous. Even if you say that I do not reference this document, it sets bad precedent. And you have not - it doesn't look like that there has been a lot of legal analysis of whether such protections are legal. And these are all ex ante protections that we cannot predict what sort of consequences there are going to have for it.

So sorry, I've been talking too much. But these are like the gist of what our concerns are and we have - we actually said a couple of other concerns in our public comment. And so this was the reason why in the - in our policy meetings we decided that the Council also decided that the NCSG representative to defer on this issue to get more explanation.

Now I will go - maybe we got it wrong. And then also, one other point that I wanted to make which is - this is not really serious issue but when we say we did not actively participate in this group and then that we were like criticized and there was some suggestions that those that do not participate they should not be able to defer and I find that - that suggestion very dangerous. We don't have time to - we are a voluntary group, we don't have time to participate in every issue that GAC wants to just reopen and we reserve the right to write public comments on the recommendations and also abstain if we have to.

So now, this meeting we don't have - we want to just decide based on the information you give us what to do and whether to abstain or if we are totally wrong and these concerns that I just raised are not - are not real concerns or if we got something totally wrong, then, you know, then we are all here and we are willing to change our mind, so that was it.

Thomas Rickert: Let me try to respond to a couple of points. One, when I spoke about the role of the GNSO Council I said that this is my understanding and the understanding of many others so Mary is certainly right that other considerations can also play a role in the decision making at the GNSO Council level. So, you know, my statement was not absolute and I hope it hasn't appeared to be absolute.

Then I heard that you were dissatisfied with our response to your public comment and that I think you said you don't just file public comments for decoration but that you actually expect to get substantive answers. I've asked staff through the back channel to bring up the public comment review tool and I think that our group has applied the same diligence in responding to your public comment as it did with other public comments and also compared to other working groups that I've been involved in.

I think that we have not disregarded your input. But we did have some difficulty with the - with the fact that the comments were made without working group - or without your group's representation during the entire discussion. And I fully appreciate that it's difficult, number one, for each and every group to follow each and every initiative in the ICANN ecosystem, so I'm not criticizing that at all. But you will appreciate that it's difficult for our group as well to summarize the discussions that we had in the total of nine calls in a response to very broad brush and general criticism to our overall approach.

So I hope that we can at least resolve that by saying, you know, if I give you assurance that we looked at your comments and we tried to give - actually we discussed it quite lengthy during one of the last calls so there was no disrespect in our response. Yes, I understand that your open-minded with respect to the outcomes, and what I suggest doing after we heard Rafik, who has also raised this hand, that we actually go into some of the niceties of this.

We had very long discussions about the legal basis and certainly none of the treaties speaks to domain names specifically, right? So we went at great lengths in order to learn about what protections there are and what the language and the spirit of the treaties and national laws gives us sufficient comfort in order to grant those protections. And the group came to the conclusion that there were sufficient protections and I think we should ask the expert on this, which is Mary, to give us a little bit of insight into that.

And after we heard Mary maybe you can clarify more what your issues with the legal basis were and if Mary doesn't respond to your request you know, first intervention then let's try to dive deeper in order to give you all the information that you need in order to make an informed decision. So let's move to Rafik and then let's go to Mary.

Rafik Dammak: Thanks, Thomas, just I'm not going to make comment about the substance and the issue that were raised by Farzaneh, but just maybe to make sure that I think we acknowledge the challenge for the group as we used - a kind of process for first time to amend recommendation and then to reconvene working group. And so having less participation since the first time, you finished at 2013, that we acknowledge that, and it's impacted us and, yes, maybe to also we can, I mean, to remember that the participation at the end in the working group for anybody is (unintelligible) capacity so this is the kind of limited participation for that working group. And you couldn't have all maybe position or perspective.

So that's why for the group like NCSG we try to use the public comment as a way to cover any - to fill any gap which was the case here. And so I can understand the frustration from Farzaneh because I think it's not just for this working group but maybe it's something even at the Council need to think is when we have a whole PDP that we understand that most of the work will be done in the working group, still have the public comments as important milestone. And so we still here facing an issue how the comments are reviewed and that are the action taken.

So I can understand from the working group what is an answer, maybe it's not that satisfactory. We can argue on that. But just maybe this is an issue how we can do better. It's not just for this working group but I think this is maybe the problem we have to think in general. Just to clarify, I mean, we understand the challenge and so what we are trying to do in this call is just to see - to understand better your perspective and also to give our perspective, then since we didn't have that chance maybe to respond in time when the working group members reviewed our comments and there was some question.

So we could at that time maybe find a solution how to respond or clarify but for now we are in a situation that the recommendations are at the level of the GNSO Council and so we are trying to see how we can make educated decision on this recommendation based on our comment that also understanding your perspective of the working group so.

Thomas Rickert: Okay, thank you so much, Rafik. And again, I appreciate that you're using the public comment as an opportunity to chime in. I know that all of you are working very hard, some of you for many, many years in the ICANN community and, you know, you all have excellent track records. So we know we can't be everywhere and we only have that many hours in a day, right? So let's try to get to the - to the core questions actually. And I would suggest that we skip Agenda Item Number 2, it looks like you all are very familiar with the report so a review of the recommendations doesn't seem to be required, so sorry for Berry who was actually prepared for that; we will find another opportunity to speak to those probably.

So let's try to dig a little bit deeper on the legal questions, on the points that Amr mentioned in the chat but also on the concerns raised by your group with respect to the right to free expression, etcetera and to what extent this working group has actually covered that. So, Mary, over to you.

Mary Wong: Thank you, Thomas, and hi, everyone. This is Mary. And I think someone may have a speaker open but seems to be gone, thank you. So I don't think we need to, for the sake of time, repeat what's either in the final report or perhaps the need for purposes of discussion of the legal basis, what was in the two attachments that Berry pasted links to I believe in the chat just up thread. And that is because significant discussion occurred and substantial work took place on this particular question, what exactly is the legal basis throughout the life of efforts preceding the reconvening of this group?

And it was a particular focus of the facilitated discussion back in I think it must have been March 2017 that led first to the Board resolution requesting that the Council look at possibly reconvening this group and then also again most particularly for GNSO purposes, in the Council resolution that reconvened the group and gave it a very, very specific direction and a very designated scope, if I can use that word, and we'll come to the word "designations" in a bit.

So there are other considerations that if I have time I'll come to, but on the particular question of legal basis, there's a couple of points I think to note. One is that we are talking about international humanitarian law, fundamentally, and that is found in the various Geneva Conventions, their protocols and what may be helpful is the official commentary to those conventions and protocols.

A lot of this has been summarized and I think one of the position papers that was used in the facilitated discussion in 2017. And I think that is referenced by this reconvened group in the final report and summarized as part of the report. In short, there are several articles in the Geneva Conventions that speak to first of all the protection of the emblem and why, and also to the related symbols and emblems of the Red Cross like the red Crystal, red lion and sun, etcetera, but more importantly, in relation to your questions, the designations. And Berry has pointed out in the chat that this was something noted and discussed by this reconvened working group as well.

So while there are a few relevant articles, I think the most relevant one for the current purpose is what I pasted in the chat which is Article 53 which talks about protection for the emblems and their designations as well as the prohibition on their use by individuals, societies, firms and so forth of both the emblem as well as the designation and if you'll notice, any sign or designation constituting an imitation thereof, whatever the object of such use.

In addition, once you look beyond international humanitarian law, you find that these protections in the Geneva Conventions, have been implemented in a number of countries through national designations - sorry, legislation and in a number of these countries, the national legislation actually goes further than what's in the Convention.

So in short, Thomas and everybody, this discussion was quite extensive at various points in the lifecycle of this particular topic. It was also part of the discussion of this reconvened group. And maybe I can stop here because I notice that there's some comments in the chat and see if there's any questions or comments.

Farzaneh Badii: Yes, Mary, sorry I just swiped the mic, I don't know who's moderating this meeting so sorry for disrupting. But okay thank you, yes, we did read those parts and still I have - I think okay so you looked at the law and you still say in the recommendations that the (unintelligible) does not constitute legal analysis of the applicable international and national law; it should not be relied and has only relied on Red Cross justification that there are legal basis. So okay, so the party that wants to protect its own name provides legal justification which is okay. So this is fine.

But then the problem there - the problem that I think this is going to raise for us is that we are going to see more and more and more of these claims and I am (unintelligible) that they look at these recommendations and say - there is - you've done the legal analysis, there are legal bases, here are some other legal bases, others, so I suggest that - I don't know if there can be some kind

of like a change in the text anymore but I don't think so, I think it's been finalized, but I don't agree that this group should actually have in its recommendation that this is based on legal basis because it seems like that it is arguing that and it's going to set that precedent. But that's what this - let's move onto the other issue.

Oh, I think Amr's hand is up so, Amr, I let you speak.

Amr Elsadr: Thanks, Farzi. And thanks, Thomas, Heather, Mary and Berry for entertaining us with this call or allowing us to hold it with you all. I had a question, I was wondering if - regarding what the working group did and did not deliberate upon. And I was wondering - and to be completely honest, I'm only reading Article 53 for the first time now so please consider this a first impression of my reading of this article.

So I'm just wondering whether the Reconvened Working Group deliberated upon the extent to which Article 53 is applicable. And again, this is because of the issue of designation, so okay so we've moved past emblems, we understand that Article 53 expands the protection against misuse to not just the emblem but designations. But did the Reconvened Working Group deliberate on the extent to which these protections are afforded and whether the recommendations in the Reconvened Working Group's final report are proportionate of that protection or do they go beyond it?

And I ask this because on, again, my first reading of this article it seems that, you know, the use or misuse by private individuals, societies or firms of the arms of the Swiss Confederation, so I'm reading here, of the marks (unintelligible) imitation therefore as - whether as trademarks or commercial marks or as part of such marks or for a purpose contrary to commercial honesty or in circumstances capable of wounding Swiss national sentiment, etcetera. So it seems that there are certain scenarios where, you know, the use of the emblem or designation here might be considered misuse and are therefore afforded protections.

But the Reconvened Working Group's recommendation makes this protection absolute against any form of use whatsoever as permanent. So I was just wondering to what extent the Reconvened Working Group considered these issues and what their conclusions might have been. Thank you.

Thomas Rickert: Sorry, I had to get myself off mute. Mary, why don't you offer a response to those points?

Mary Wong: Thank you, Thomas. I'll try. And thank you, Farzi and Amr for the questions. It's really good that we're having this discussion. I'll try to clarify things. And let me start with Farzaneh's comment and Farzaneh, I note that point in the report that you refer to about the summary that the working group has in its text not being taken as legal analysis. And the reason why that is there is simply because that is not an expert legal opinion and the working group simply, you know, cannot be in a position where in future, you know, someone points to the report and says, "That's the legal opinion and that's where the proof is."

Instead, as Berry and I have said, you have to go back to the source documents and there are several. And Article 53 being one of the various articles that in combination gives that legal protection and explain further in a number of protocols, commentaries and so forth, and it's also protected in some cases extended, as I said, in national law.

But it's also important, and hopefully this addresses the additional questions that Amr and others have mentioned, it's also important to note that while that was a very fundamental discussion, because you know, in line with the NCSG's position and concerns, right, you can't, you know, take something out of the system without there being a legal basis for it.

But in addition, it was recognized, and I think throughout the lifecycle of the various GNSO efforts, that the Red Cross is in a very particular position vis-à-

vis, other international organizations, vis-à-vis, other NGOs. And if you recall, this was actually recognized way back in the original PDP including by the NCSG representative.

So the question was, if they are that special, what makes them special? And by (unintelligible) of that special nature, what are the protections that ought to be given to it and not more but appropriate? And so in addition to legal basis, one very important point is the public interest concern that was noted in particular by the GAC. And I think it's important that the group also consider that this was deliberated on by this Reconvened Working Group.

I notice that Heather in the chat has made a couple of comments, and we can provide the links to the recording and transcript, but I think the point that I'd like to make here is that while the fundamental legal basis important and we're addressing it here today because that was a specific question that was raised by the councilors, it's important to note that there are other equally important considerations based on public interest and public policy and in addition to that, but as part of the overall discussion, the limitation was quite circumscribed.

So for example, when you're talking about the National Societies the working group considered quite (unintelligible) the fact that it is only an officially recognized National Society that would get on the list. And we can talk a little bit later on about how the list is changed and that was also heavily circumscribed too, but in - but basically for current purposes, the process, the standards, the difficulty by which a group becomes a National Society was discussed within the group.

The public interest concern, and the mission of the Red Cross that places it along with the legal basis in a very, very particular position very different from any other IGO, was also taken into account by the group.

So I hope that this at least gives some sense of the group's deliberations and the various reasons and why at the end of it the working group felt that it did fulfill the Council's instructions, it did come up with a very limited finite list that applies only to the Red Cross for this purpose. Thanks, Thomas.

Thomas Rickert: Thanks, Mary. We have Farzaneh in the queue again. Farzaneh, please.

Farzaneh Badii: I'm sorry, I don't want to - I don't want to dominate this call so but then I also want to raise the other point. Okay, so we understand that as you've discussed the legal basis, my concern is still that the language in the recommendations about the - that this decision was based on a legal reason and I'm worried about it, my concern is not alleviated despite the language being quite precise that it's not a legal analysis. So I don't know how they didn't do a legal analysis as such but then also said that that's one of the legal basis is one of the reasons.

All right, so but then let's move on because we only I think have 20 minutes. Not to take your time more than this. The other very important aspect of these recommendations, and tell me if I'm wrong here, I can see that, if I just pull it up from here, so you have a translation and transliteration of these groups that are not - that are included, right? So you have transliteration, so these are not 191 names if I'm not mistaken, there are more than that.

So that's another point that if you could clarify then I think the report shouldn't say if it's more than that - shouldn't say 191 names, it should say - but also the official languages, several official languages too which will make it how many? Like 380 or something? And then the most important thing that I think is very concerning here is not - is allowing such measures of additions to then be taking place without having to go through a PDP.

So if I go that - this wrong, then tell me. But I don't think you said you should - I don't think any criteria for additions should be here because sincerely, that would not be a finite list especially when we say you shouldn't go to a PDP to

add to the list. So if I'm - if there is like something that you can add or correct me then that would be great. Thanks.

Thomas Rickert: Thanks, Farzaneh. Let me try to respond to that. If you talk about additions or potential additions to the list, we have 191 National Societies and I think that theoretically there can only be one or two more. Mary or Berry might know the exact figure, but we have explicitly asked how many of these organizations can be created because we were afraid that this might open the floodgate. And in fact, you know, it's less than a handful of countries that can still set up such an organization.

So we're looking potentially at a very limited number of additional organizations, I think one or two actually. And we intentionally crafted a process that would allow for the addition of those without the need of doing an additional policy development process because the criteria would be the same, there would be the same requirements in terms of syntax and variants as you see in the Adobe room now. So I think we've done what we could in order to prevent mission creep into - into more organizations.

So Farzaneh, I read that these 191 - it should read organizations and many more names I believe, yes, we have more names but those names are variations of the organizations' names. And we had quite a discussion as to what that should be because we didn't want to render those protections entirely moot by just having exact matches but to have the names that actually would be used in the respective countries.

And also since, you know, as you know, these are not trademark protections, the general principle of trademark protection is protection against identical or confusingly similar names so this is basically what we covered in this exercise and also we tried to cover what is typically done when the names are put into the reserve names list, i.e. what the technical requirements would be, how to deal with dashes, how to deal with blank spaces and stuff like that.

So that's why the number is relatively high in total but in fact it's just variations of the limited number of names.

I would suggest that, you know, Farzaneh, and others, and I think Farzaneh, you've been particularly outspoken on the lack of legal basis that you see so we tried to outline what our group did. So if you could be probably more specific in what you are missing or what explanations we could likely offer then that would be appreciated. So I saw Mary's hand was raised, now Farzaneh, you've raised your hand again. Since it would be Mary anyway that it would go to respond, let's hear Farzaneh first with additional questions and then go to Mary to offer a response. Farzaneh.

Farzaneh Badii: Thank you, Thomas. Just to save time I really - I think we should also focus on not having to go through another PDP to add to the list and make any additions. I think that is very important to be discussed as well. Go ahead, Mary.

Mary Wong: Oh, thanks, Farzaneh. And I do think it's important to come back to your questions and concerns and particularly about any concerns regarding the working group and how it came up with this very limited, defined list of variants. But I put my hand up because I thought it might be faster, Thomas and everyone, to add to some of the conversation that Amr and I have been having in the chat especially for purposes of the recording and the transcript.

And he had asked a question about the designations, meaning the names, Red Cross, Red Crystal, etcetera, etcetera. And what I wanted to note is that this was actually a question back in the original PDP Working Group in 2012, 2013 and Thomas, maybe you don't want to remember all those discussions back then. But if you'll recall, in that original working group it did lead to consensus and ultimately a consensus policy that has now been implemented where the words, the names, Red Cross, Red Crystal, Red Lion, and Sun, were reserved or withheld from delegation.

So in similar vein, you know, that was the understanding that carried over into this reconvened group. The Geneva Conventions do make it clear, and I cannot remember the exact article, I apologize, that this - the prohibition on the use and the application of the protection also extends to the National Societies. And that is one reason why, when talking about the National Societies, this reconvened group did take into consideration the fact that it's extremely hard and there is a full formal process to be recognized as a National Society.

So, you know, in short, while the Geneva Conventions, it's not just when they were written but the breadth of their coverage, you know, including the use of the emblems and designations in times of armed conflict, really don't get as specific as talking about domain names or, you know, websites or use on the Internet. The commentaries that I pointed to do note that they apply to usage online and as a result of the discussions that were first held within the original PDP Working Group, hopefully, Amr, you know, that history and this explanation can help this group understand why for present purposes this Reconvened Working Group was able to reach the conclusions that it did.

And so I'll stop talking now and go back to Farzaneh. Thank you.

Farzaneh Badii: Thank you, Mary.

Thomas Rickert: Yes, go ahead.

Farzaneh Badii: Go ahead. Go ahead - so, yes, I just wanted to thank you for taking the time for all the explanation. And go ahead, Thomas.

Thomas Rickert: No, I was just trying to give you the floor for additional questions. And you asked a question in the chat, on the protection of words, so tell me can I register [iranianredcross.watch](#)? And the answer is if this Iranian Red Cross string is on the list it will be (docked). And if you want to hold organizations accountable, then you would need to do with another name actually. So I

think there is quite some - quite a wide range of court decisions at least in Germany where identical designations can't be used for, you know, criticizing organizations, so I think in a nutshell what we tried to do is give protections to the organizations, keep those as limited as possible, and cover a couple of identical or confusingly similar names.

So we have nine minutes left so I think we can perfectly exhaust that hour, so if you have more questions that we can try to answer please let us know.

Farzaneh Badii: Yes, so I want to go back to - I'm sorry, I'm being annoying here, and pedantic, but I want to go back to - and I know you wanted to have a laugh, so but I'm sorry, I'm not very humorous today, but it's - so let's go back to this PDP thing that they don't have to - they don't have to reconvene a PDP if they want to add to this list. Berry says that their names are predicted somewhere else in the INGO so it can be added to the list. So my concern is if you do this, is it going to set precedent of course but then the whole international organizations groups they are trying to do this any way to get a bunch of names protected, no one can register them and then they just (unintelligible) about them.

But then if you allow that to happen, if you allow the addition to happen, without going through a PDP, and I'm not talking about correction or (unintelligible), I'm talking about - then this is not a finite list. So I want to hear an argument that this is a finite list despite the fact that additions are allowed.

Thomas Rickert: Let me see, Mary, is this something that you can easily answer, or Berry? Mary, go ahead.

Mary Wong: Thanks, Thomas. And I'll try but Berry might need to supplement because I think the essence of the answer, Farzaneh, if I understood your question correctly, does actually lie in the wording of the recommendation. And you see that it's here on the screen. And I'm just going to scroll back a little bit, right, that first of all, there's a couple of different kinds of changes to the list. I

think we're only focusing on how can a name be added to the list. And there's two types, one is when a new National Society is formed; and that clearly is a rather long complicated formal process that requires international sign-off within the international movement.

But secondly, and my understanding is your concern may lie largely in terms of the variants. And so if you see what's on the screen here, pages 10 and 11 of the report, I'll say that staff did work through the entire spreadsheet that was sent to the working group by the Red Cross that contained only those names and the requested variants and based on that, came up with the list of the conditions, if you like, although that's probably not the right word, of what the permitted variants might be both in English as well as the official UN languages.

So this was in line with the instruction from the Council which based on the Copenhagen discussions, understood that there would be a need for a limited list of variants. And so it was up to the reconvened group to work on what that limited list might be. In working on that list, and based on the staff homework, which you actually will see distilled here, the reconvened group quickly understood that it was important not just to say it is, you know, the Japanese Red Cross and these two other names, it is the Mexican Red Crystal Society and these one other name, but to actually explain fully what those variants consisted of. And that's what you see in Pages 11 and 12 of the report.

So it remains a limited universe. It has certain rules and those are the rules that you see documented here. I'm not sure if that fully answered your question but hopefully that explains where this list came from and why it is both permitted but also extremely limited. Thank you.

Farzaneh Badii: Thank you, Mary. I just think that - I'm going to be pedantic again, I just think that a finite list is a finite list. You cannot add to it and that's it, thank you.

Thomas Rickert: So we have Berry and then Heather.

Berry Cobb: Thank you, Thomas. And I think just to add on to what Mary has said here, the finite list being discussed here for the terms of this report is to get to a point where it's implemented and that finite list doesn't change up to implementation and its policy effective date. There are basically three recommendations here, 4 through 6, that are strictly about the inflight process of getting these onto the reserve name list, error handling, you know, when this was - when these original National Society names were added at the direction of the Board back in 2014, it was uncovered that there were a few errors on that list and the intent of the recommendations and the uses of finite list here is to get to that steady state point.

Whereas the policy that I put a link into the chat, which became effective on 1 August of 2018, which encompasses not only just Red Cross names but International Olympic Committee as well as IGO full names and a subset of INGOs, that policy for all of those groups, does basically in a generic term have a maintenance provision or maintenance procedures, meaning one, that there's an exception procedure should one of these protected organizations wish to register that name and use it.

But secondarily, and especially for cases and mostly for cases for the Red Cross National Societies, as Stephane Hankins has told us, you know, there are one or two, you know, maybe three, as Thomas noted, I don't believe it's a large number, but there are - will be a future National Society that is created and adopted via the Geneva Convention and their rule set.

So it made more sense to create a procedure to manage that small dynamic change as opposed to trying to launch a whole new PDP to cover just for one new National Society being formed. I hope that's helpful. Thank you.

Thomas Rickert: Thanks very much. Heather, please.

Heather Forrest: Thanks, Thomas, very much. I just wanted to follow up on a comment that I made in the chat and indeed it links very neatly to what Berry has just said. So I think you know, it's key here to me from a process point of view that if you believe that we're missing any relevant information, it's very important to point that out. I think we can all brace ourselves for the comment justified or not, you know, it would have been very useful to have that pointed out when the group was deliberating. But I think you know, we discussed that point, Thomas carried that point pretty neatly in the beginning of the call.

We were missing a key piece of information when this thing went to the Council when it finalized its work with Thomas as chair in its first incarnation in 2012, 2013. That piece of information was you may remember, the Red Cross essentially asked for anything and everything under the sun; no boundaries around anything. It was technically not feasible, it was legally full of holes, and we all walked away looking like bad guys for denying the Red Cross, you know, what they had asked for.

We've held a very hard line within Council in even reopening this PDP. We had to go through quite a few logistical or process, let's say, hurdles to even reopen a PDP that had been voted on. And one of those rationales, the primary rationale for reopening the PDP was that we finally had an understanding of the precise - well the Red Cross finally understood the need for a precise list, that that list had to be limited to as Berry's just explained, the National Society names and not crazy variations and this sort of thing, that if this was going to work it was going to have to be directly linked and tied to the National Society names.

And we pushed back rather strenuously, myself and Greg Shatan I think in particular, against any suggestion that might involve acronyms partly because it's not in the instructions from Council but also the reasons, it's not in the instructions from Council is that we're well aware of the legal concerns there and we can characterize that as free speech or trademark or any number of

other legal concerns. So I just wanted to put that procedural aspect on things, Thomas, and I apologize for taking us one minute over. Thank you.

Thomas Rickert: No worries. Thanks very much, Heather, that's very helpful. So we've reached the top of the hour. I'd like to suggest that we do the following, if you could analyze as you surely will do, the responses that we gave today and whether those responses helped you in your assessment of our report and in your process to determine how you're going to deal with this at the Council level that would be great.

And if there's anything that we can do to provide more information, I mean, it's - it will not be possible for us to rewrite the report but what we can do is offer more information to help in your decision making and also I think I would be perfectly okay with adding an additional note or dissenting statement or minority opinion from your group to the report if you want to highlight your opposition, if any, to your statement so far.

So with that, I think we can adjourn unless there are any last minute interventions. I think Heather's hand is an old hand. So but Tatiana, you said you asked whether we can add a minority statement? So if that is a way for you to mitigate the - or help bridge the gap that's certainly something that I would - or that we would consider. I think I would need to check with the procedures but - well, Mary, maybe we can publish it along with the report not to include it in there but to give some additional visibility to the opposition.

I suggest we take this offline, consider it and maybe you can consider whether that's something that you would want to do and we can continue discussing that on the list. So with that, thanks, all of you for your time. I think this has been very interesting. I hope it has been helpful for you guys. So have a great day and bye for today.

Andrea Glandon: Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day.

END