

**Transcript**  
**GAC/GNSO issues related to International Olympic Committee (IOC) and Red Cross (RC) names discussion group teleconference**  
**21 March 2012 at 18:00 UTC**

Note: The following is the output of transcribing from an audio recording of the GAC/GNSO issues related to International Olympic Committee (IOC) and Red Cross (RC) names discussion group teleconference held on Wednesday 08 February 2012 at 1800 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:

<http://audio.icann.org/gns0/gns0-gac-ioc-20120321-en.mp3> On page:  
<http://gns0.icann.org/calendar/#mar>

**Attendees**

Jeff Neuman - Registry SG group leader  
Lanre Ajayi - Nominating Committee Appointee  
Thomas Rickert - Nominating Committee Appointee  
James Bikoff- IPC  
Kiran Malancharuvil - IPC  
David Heasley - IPC  
J.Scott Evans - IPC  
Debbie Hughes - NCSG  
Alan Greenberg - ALAC  
Chuck Gomes - RySG  
Wolfgang Kleinwächter -NCSG  
Osvaldo Novoa - ISPCP  
Stephane Hankins - International Committee of the Red Cross

**ICANN Staff**

Brian Peck  
Nathalie Peregrine

**Apologies:**

Steve DelBianco - CBUC  
Konstantinos Komaitis - NCUC  
Gregory Shatan – IPC  
Margie Milam

Nathalie Peregrine: Thanks very much (Tanya), good morning, good afternoon good evening, this is the IOC call on the 21 of March 2012. On the call today we have Lanre Ajayi, Alan Greenberg, David Heasley, Wolfgang Kleinwachter, Jeff Neuman, Debra Hughes, Osvaldo Novoa, Thomas Rickert, Stephane Hankins, Kiran Malancharuvil, Charles Gomes, James Bikoff and J. Scott Evans.

From staff we have Brian Peck and myself Nathalie Peregrine, we have apologies from Konstantinos Komaitis, Steve DelBianco, Greg Shatan and Mary Wong. I would like to remind you all to please state your names before speaking for transcription purposes.

Thank you very much and over to you Jeff.

Jeff Neuman: Thank you Natalie, this is Jeff Neumann, can I just ask a question, none of the names I heard I didn't hear anyone from the non-commercial users constituency? Is that correct?

Man: There's Mary Wong I think and Wolfgang.

Man: ...holidays.

Wolfgang Kleinwachter: I'm here.

Jeff Neuman: Sorry Wolfgang, sorry about that, okay, I just wanted to make sure. Great, okay, so welcome everyone and I just want to start out, I'll start out the call with kind of just an update which I'm sure everyone on the call knows but it's good for transcription purposes and the recording just to kind of go over what happened a week ago at the GNSO council meeting.

And the next steps and then go over what we'll be doing on the top level and I hope more importantly be focusing a little bit on steps we can take on the second level which we sort of started before Costa Rica.

But I think some events in Costa Rica may add a couple extra deliverables that we may want to start on for the second level. So all of that said, last week at the GNSO council meeting after a fairly lively discussion for several hours it was decided to defer the motion at the top level that we had proposed until the next council meeting.

There was a second motion there to move the - or to call an emergency council meeting so that we could hopefully meet and decide the issue prior to the closing of the application window.

That meeting has been set for Monday the 26th at I don't know the UTC time, but essentially it's - I think it's I want to say 15:00 UTC time.

So that meeting's going to happen on Monday and that meeting is after the close of the comment period which ends on March 23.

Technically under the new ICANN rules there's supposed to be a 21 day reply period after a comment period but because of the extreme circumstances and because of the tight timeline we agreed as a council and the NCSG was agreed as well that the - we could waive that reply period.

So all that said we have the motion that's on the table, which members of the drafting team that were in Costa Rica had helped significantly on, it was certainly modified in other respects from the original motion that was proposed by the drafting team.

And it was agreed upon by the representatives of the international Olympic committee and the Red Cross Red Crescent movement are present in Costa Rica.

So with that said, I thought at the beginning we could kind of just go over the comments that we received from the comment period, I'm hoping some of

you have a chance to read the comments, there are a number of them that are out there.

And we could discuss those, see if any of those comments changes anyone on the drafting team's thoughts or opinions on the motion, and also then go over some of the other comments that have been raised on the mailing list.

Any questions? Okay, so in reading the comments on the - and anyone please feel free to raise your hand, speak up if you have a question, or sorry Chuck you have your hand raised so Chuck let me put you into the queue.

Charles Gomes: Sure, thanks Jeff, I did make it through the comments, I read some of them previously but I thought there were some very good comments.

I do have - I'll make very brief comments on the comments, but I have a question for Alan first of all because the ALAC's comments basically said they oppose the motion if I understood it correctly but they said leave the guidebook unchanged.

So should I interpret from that, that they don't want any - what staff has already done in the guidebook they want to leave alone and not make any changes to that, or do they oppose what staff did already in the guidebook.

Alan can you answer that?

Alan Greenberg: I can try. They certainly oppose what both the board and the staff did, that is the whole issue shouldn't have been raised to begin with in the way it was.

At this point they are happy given that it is in the guidebook they are happy to leave well enough alone and not make the changes that are being suggested, that is their preference will be that this motion be defeated, okay?

Just to be clear I've been on the drafting team, not necessarily very dissimilar views but should this (unintelligible) should the change go ahead, there is a strong feeling that it's bit of a habit, more consistent and coherent than you know just the random pieces that were in the guidebook.

So if they were going to make a change, yes, make it intelligently, ALAC would prefer not to see a change as they would prefer not to have seen the whole issue raised. Does that make it any clearer?

Charles Gomes: Yes, that's pretty much what I concluded but I wanted to make sure I did that correctly. Real quickly just the - you know the comments I saw, obviously there were some good comments that others using variations of Olympics should be able to use those names.

I think we've at least partially addressed that in part of the motion, if we decide to keep it that way. The - I thought that - I won't call out most people by name but if you haven't read them I thought that Avri submitted two very thoughtful and well reasoned comments.

One general comment she made is that we make no massive changes to the guidebook, just a side note on that, in one board member I talked to in Costa Rica, kind of had the same opinion that that board member was not particularly interested in anything that was really massive.

So we can kind of keep that in mind. The - certainly there seems to be a lot of push for more work on this, more according to the policy development process, so that to be responsive to comments would - might be one thing that we could talk about.

And then secondly the issue of the general language as stated by the Portuguese representative to the GAC and as Wolfgang has communicated to us and communicated well in Costa Rica, that issue is one that we could be responsive to.

I personally don't think we can pull that off in the short time we have but we could suggest that that issue be dealt with after the first round.

And I'll just leave it at that Jeff, if there's any questions I'd be glad to answer them, thanks.

Jeff Neuman: Thanks Chuck. And I see Alan's got his hand raised, I would just say that I think that issue can be addressed, I think you said after the first round. I think we may be able to address that or at least attempt to address it in dealing with the second level names.

I don't think it's too late to do that. So it may be earlier than the - maybe still in the first round but may not be - we're not going to be able to do it I don't think before the vote on the top level protection.

So one of the things I was going to suggest was that we send some communication to the GAC asking for that rationale.

If there's anything in addition to what they've already sent us and I'll follow that comment and then I'll get back to Alan, I did send around just a reminder of the original request that was submitted by the GAC to the GNSO, and I know we've all seen it, but I don't think we've all necessarily read it in a while.

But even that document does have a list, it does go into why these two marks, and it does have a list of all of the jurisdictional protections for the Red cross and Olympic mark.

So I think - I don't know how much more we're going to get from the GAC on that, but certainly for the second level we can look at talking about these in more general terms as opposed to talking about these in the specific with these two enemies.

So let me go to Alan then Thomas. Alan?

Alan Greenberg: Okay, thank you. You - Jeff you said part of what I was going to say that is I think we can - if we're going to deal with a more general case at all, we certainly should try to do it in the first round for the second level.

There's no reason that if we can address the IOC Red Cross in the second level we should be able to address the more general case also assuming we can come up with the definition of who belongs in the general case.

I in fact had some ideas in Costa Rica I didn't write them down, I'm not sure I can remember them, I'm going to try to that might address some of these things and take the difficulty out of the GNSO hands which I think is what we need to do.

As I said in the note that you sent a few minutes ago, at this point I'm not sure it makes a big difference which way we go.

I'm assuming that the IOC and Red Cross are not applying for their own marks this time, since the applicant guidebook doesn't allow it and we haven't heard any words otherwise, you know I think we're talking to a large extent about philosophy and elegance in the guidebook and not necessarily about practical implications in this round.

So I would like not to have to spend a lot of time in the GNSO meeting and just come to a conclusion, I think we can live with either end of it.

I think we are going to need to address general case in the second round for top level and preferably in the first level for this round.

My sense is from talking to a number of people that I respect highly that indeed the Red Cross and the IOC may have a unique mosaic of international law and national law covering them.

Other organizations had a different unique mosaic which may be equally valid and I think we do need as Wolfgang and others have said to come up with a general case where it's not the GNSO or ICANN proper that is making the judgment call in each one.

So I think we have the way forward outlined. Thank you.

Jeff Neuman: Okay thanks Alan, Thomas?

Thomas Rickert: Thanks Jeff, well I've just like to go on record by stating that you know having read all the comments, that some of them actually assuming that we are granting protection to these two organizations which is wrong.

Protection has already been granted by the board and I think that's an important differentiation to be made.

At the same time I do share a lot of the comments that the bottom up principle should not be destroyed or you know tackled with the approach that the adopting team has taken, which is why I proposed during the policy and code session that we should even go through a PDP to address future rounds of the second level.

I would also like to highlight that there's the two comments that Avri submitted which I think were very enjoyable reading. Even Avri said that we should retain recommendation 1B which is about the string similarity.

So I think what we need to ask ourselves now with the deferral and you know we're at a very late stage now, we shouldn't propose anything that completely impractical for ICANN staff to implement and therefore it might be worthwhile considering you know while I stand by my original attitude to recommendations that they should be both depth.



We might consider to probably (strip) that up, not only in terms of recommendations but also in terms of protection because I see that at least for Avri said might be more common grounds than we anticipated. Thank you.

Wolfgang Kleinwachter: I'm sorry, I'm in a telephone call.

Jeff Neuman: Okay Wolfgang let me go to Debbie and then I'll come back to you.

Wolfgang Kleinwachter: Okay.

Jeff Neuman: Okay, Debbie.

Debra Hughes: Yes, hello, hi, speaking on behalf of the Red Cross or crescent movement and it's our opinion that the language in the AGB should be modified to allow the movement to apply should it choose to.

And with all due respect I don't think we're required at this time or any organization is required to announce their intentions. I certainly don't think and neither does the movement think that it was the intention of the GAC nor the board to place the Red Cross movement in a position that would disadvantage the movement should it decide to apply.

So we certainly think in support of the hard work of the drafting team and the motion that would also want to bring to this group's attention that we appreciate the GAC's acknowledgement of the importance of following and trying to protect the you know legislations that are in each of their jurisdictions.

It's the obligation of I think everyone with ICANN to carefully consider these issues, we look forward to talking about protections at the second level and even in future rounds.

We have no idea if there are others who are out there who have the means or interest in doing such, but what we do know is that history has proven that scammers and there are others that are out there, that have unfortunately you know misused and taken advantage of these designations and you know we can't be clairvoyant.

You know I certainly don't want to try to be and it's not my place I think or any of our places to you know let this decision rest on a guess, what we think.

And I really believe and the movement believes that since history has shown that there are people who are interested in using these designations without permission that we think it's important for us to consider whether or not that protection should also occur at the top level in this round and in future rounds.

Jeff Neuman: Thank you.

James Bikoff: Jeff, Jim Bikoff could I say something? Jeff?

Man: Don't hear anything.

Jeff Neuman: Oh I'm sorry, I put myself on mute. Jim let me come back to you, let me go to Wolfgang first and then I'll come back to you.

Wolfgang Kleinwachter: Yes this is Wolfgang, I think you know must to reply to the last speaker, if you go to the articles of incorporation of ICANN the paragraph four, the articles of incorporation from 1998 were very clear that ICANN operates in the framework of international and national law.

So I think it's an obligation from ICANN to follow its articles of incorporation you know to take this into consideration so there is no new language needed because this is already the legal basis for any actions ICANN undertakes.

I just want to remember this because not everybody remembers the articles of incorporation for this - for ICANN. You know I have just a procedure request here, what are - you know if we are dealing with the motion what will be the next step?

So it means on Monday the council has to make a decision and then what is the next step for the means, then it goes back to the board, and has the board to do something, how this will affect the language in the applicant guidebook?

Or you know I'm a little bit confused you know what are the immediate consequences of the decision by the council, how this will affect the process as it - as we arrive now to the period where we close the window, two dates in March and April.

And so because we do not have that, the GNSO council has no authority to make a final decision. So we give advice back to the board and then you know what is the next step?

Has the board signaled that they'll do something, so this is certainly a little bit unclear for me and probably somebody can help Jeff or somebody else.

Jeff Neuman: Yes so I think you said it right, that our role is to provide advice to the board, they are not bound by - this is not a PDP where they would be - even if it were a PDP they're not bound.

But if it were a formal PDP and it was formal GNSO advice then the board would need a - would have to accept it unless they had two thirds vote against the - you know so it would be a higher threshold for them to overturn it.

And then even then they would have to send it back with additional work. So there's different ramifications. For this, this is just a straight motion, the board can choose to take it, they could reject it.

And I think for us to kind of speculate as to what they would or wouldn't do, I don't think that's very productive for us. I think it might have been a little bit easier had we decided the issue last week.

Now you're right, now we're really cutting against the deadline, but again I think as Alan had said earlier this is a lot about principle as opposed to necessarily what may happen in reality.

I think Debbie's points are very clear as well that you know they shouldn't be disadvantaged. I think there are certain things that could be done fairly easily by the board.

For example it would be very easy to do a string similarity review and add that in, it would be very easy for the board to allow - update the guidebook to allow the Olympic committee and the Red Cross to apply for their own marks.

It would probably be a lot more difficult to implement the rest of let's say 1C within the time frame, but yes, I think we as a drafting team should make our recommendations based on what we believe for this current round as opposed to what is going to necessarily happen in reality.

I just think that's the way we need to proceed and you know our role is to provide advice to the GNSO council on this issue and that's - I think that's what we're doing.

Wolfgang Kleinwachter: I think that that was (unintelligible).

Jeff Neuman: Let me go to I don't know if it's David or Jim but - so I'm assume it's one of - is that you Jim or is that David?

James Bikoff: That's me Jim. I just wanted to agree that I think that the IOC and Red Cross should be given the right to apply in the round. The other point is that the string similarity review is important and we want to make sure that we're - that neither organization is blocked in subsequent rounds by a similar screen that's registered in this round.

So I think these are important points. The other thing I was going to say is that in the GAC communicate they conveyed the concept that they had reviewed the proposals to ensure effective protection at the top level.

They concur with them and they urge the board to act expeditiously on these proposals to ensure that the names benefit from full protection at the top level.

So I think that you know I think we're talking about trying to close the top level and then move on to the second level where one of these other comments I think can be considered you know in a less rushed manner because we're going to have much more time on the second level.

And I think that Wolfgang's comment about considering a more generic standard and things of that type should be looked at after we complete this top round.

Jeff Neuman: Thanks Jim, let me go to Alan then back to Debbie and J. Scott. Alan?

Alan Greenberg: Thank you, I think we have to be careful in this call to focus on do we need to change the motion or in the extreme withdraw the motion based on the comments.

To make the argument about whether the Red Cross should be allowed to apply for its own mark or not, that's the decision - that should be raised in the (unintelligible) in deciding whether to accept our motion or not.

You know at this point unless there's some radical concept that we completely retrench the motion then I can't imagine us doing that for a whole bunch of reasons, the question is does the motion need to change because of the comments or other things that have come in the middle.

And let's not replay the discussion we're going to have to have in the council meeting on Monday as to whether this motion should be granted at this late time or not.

Otherwise we're going to fritter away the call and we're not going to get through with what we need to do to enable our council meeting to happen. Thank you.

Jeff Neuman: Okay, thanks Alan and I think after we hear from Debbie and J. Scott I'm going to ask that very question about the motion so let's go Debbie, J. Scott then we'll address that question.

Debra Hughes: So I just wanted to get back in the queue just to make the point since it was raised earlier that we didn't think that there was a need for a change. Just wanted to clarify that the Red Cross Red Crescent does believe that there's a need for a change.

And want to thank Wolfgang for citing the articles of incorporation for which we are very familiar and think that that in fact actually supports the fact that this is an implementation issue since they already have obligation to follow the laws.

And that by doing this and putting this exclusivity in there that they - you know the board is indicating its desire to follow the laws prior to article. Thanks.

Jeff Neuman: Okay, great, thanks Debbie. J. Scott?

J. Scott Evans: Okay this is J. Scott, I just want to say that you know I agree with everything that Debbie has had to say here. I do agree that the rationale that's been set forth in the GAC letter, thank you Jeff for circulating that this morning, personally I haven't seen anything in the public comments that have been filed that have persuaded me that we - to change my vote on a consensus vote that we held before.

It's very cogent arguments made passionately on behalf of a group that made those same arguments during the entire drafting team meeting that I attended.

And I understand that they are very passionate and very committed to their view, but I think we need to move forward.

I think this motion is the right thing to do, the fact that we're in this timing conundrum I think I made very clear on the list my personal opinion with regard to that.

I believe the IPC I can speak for them as well with regard to that. But I don't want to focus on process, I don't want to argue about that any more.

I want to move this forward and decide on this motion and personally I'm no - I feel the same I did on March 2.

Jeff Neuman: Thanks J. Scott, so let me ask the - there's two questions then, so the first question is does anyone believe that based on the public comments that we should or need to change any part of the motion as it exists.

Not whether you support it or not, but you think based on the comments we should change it. Chuck? And Wolfgang you're after.

Charles Gomes: Sorry about that, I was on mute too.

Wolfgang Kleinwachter: Chuck go ahead.

Charles Gomes: Okay sorry, my apologies, the - I'm not going to push for changes in the motion, I think there are two possible changes we could talk about a little bit that I think would show responsiveness to the comments that were I think reasonable things to change.

I don't think they're big changes, I think with regard to the issue of general language for - instead of the specific, I don't think we have change - a chance to do that at the top level right now.

But I think it would be good and would be responsive to several comments if we stated that in the review after the first round, that the - we would recommend that that review worked at the top level for general language.

Now that may fall out and be very easy, actually work at the second level in the coming weeks. But I think that would be one way to be responsive. Secondly a lot of comments dealt with process and we all have problems with process.

The registries you know in our comments indicated we had problems with process. So I actually think we could talk about at the - and it's going to happen anyway so in recommendation three where we say it may be reviewed, I think we ought to talk about the fact that it would be reviewed through the bottom up processes that all of us are supporting.

Now am I - I'm not going to be rigid on those, I think that's two ways we could be responsive to the comments and I'd be curious to hear other people's thoughts.

And keep in mind like I said in an email today, I have not had any time to talk this over with the registries so I'm speaking personally.



Jeff Neuman: Thanks Chuck, so just to recap and then I'll get to Wolfgang, your two changes would be first to say that I don't know if I'm taking this out of order, but one of the changes would be the extent that it should be reviewed, and then the first one was a comment on process.

So can you just repeat them again so I can just...

Charles Gomes: Sure, part of the problem was the order I gave them I think Jeff so that's probably my fault. So the first change would be in recommendation three to require review of the first round decisions and the overall process so that we can truly do a bottom up type thing.

So it would be almost like what Avri suggested that an issues report be requested. We can't request an issues report so that's not to our doing.

And then secondly that in that review that the language for the top level be changed to general language instead of naming two organizations.

Jeff Neuman: Okay, let me go to Wolfgang.

Wolfgang Kleinwachter: Yes I can keep it short because more or less I wanted to say what Chuck said so I can support fully what he said. You know my key problem and I have repeated this again and again, is this problem of uniqueness.

So - and in a general language would make it much more easier for me to be - you know to support the motion as it stands. You know personally I think it's overdone.

But you know we have the special circumstances to (unintelligible) wise and all this and we have to live this duality, we have to either (unintelligible) half cooked so that means - and the consequences of our decision are also - you know has to be finally reconsidered by the board and the board has to also receive to make the final decision.

But anyhow you know the - what Chuck said in his first point the general language, is in my eyes you know the key point, also to demonstrate that we are - you know responsive to the comments which are made in the comment period.

So that we show a certain flexibility and not just take the language as it is and bring it back to the council meeting on Monday.

Jeff Neuman: Okay so one of - and then I'll get to Alan and Lanre, one of my concerns is if we change too much of the motion we're going to get people saying well that should go out for public comment and we can't vote on it.

I want some sort of guarantee that that wouldn't happen and so one of the things I may do is Chuck if you could draft the proposed amendments for the first two concepts, I have a third that I may want to just add that I saw or heard discussed.

I'm going to ask you know as the proposer of the motion basically that I will only accept those as friendly if and when - to the extent that the - there are no - that we vote on the motion right?

So that there's no discussion of well now that we've changed the motion we have to put it back out for public comment, since I'm the proposer of the motion.

So I may be that kind of in a contingent friendly amendment. I think the third concept and then I'll get to the people in the queue is that we may want to more formally ask for I don't know if we have to do this in a motion, but we do need to get that information from the GAC that they had said they were going to give us.

And I don't know if we want to put that in the motion or not but it's something we could talk about as far as a more general rationale and that will help in changing the language.

Let me go to Alan.

Alan Greenberg: Yes, basically I agree with Chuck, I can see a few changes and I don't think that's where we're going but let me identify them.

First (unintelligible) three changing the may be reviewed to must be reviewed, I argued that when we first were talking about but the world has changed since then, it will happen anyway. I have no problem putting the must in our resolution because I don't think it will change reality.

And it certainly will make some people feel more comfortable. I have no problem when in the second paragraph of recommendation with the IOC and RCRC adding a phrase like 'and possibly a more generic classification of organizations'.

In other words let's not try to define it here, we're not going to get closure on something that comes in at this late date, but we can simply say the intent that the GNSO may want to look at it in a wider sense.

And the other change that I would not feel uncomfortable with is extracting out somehow or singling out recommendation 1A which says the group should not be prohibited from applying for their own marks, which as Debbie said you know no one imagined that was going to be included in the implementation.

And yet is was and that one may be an easy one for the board to you know rather than do that one if they choose not to do a wider one.

So those are the changes that I can see that I think would be acceptable, would not be such large (protebation) that it requires a wider - you know going back to review things again.

And yet addresses some of this specific comments that have been made.  
Thank you.

Jeff Neuman: Thanks Alan, can you just go over again the - and I'm trying to figure out where it would fit, talk about the general (CSAC), you know is the whereas clause?

Alan Greenberg: No, no, in the recommendation three, second paragraph where it says in this proposal the GAC has recommended that production of the IOC and RC should not be applied just to first round and second round.

I haven't actually tried to draft words.

Charles Gomes: I'm working on some in what you requested for that, I agree with Alan that it's probably in recommendation three, but we can talk.

Alan Greenberg: The last occurrence, I'm on a very tiny screen here so it's hard for me to read, I think it's the last occurrence of IOC and RCRC where we may be able to tag on a phrase and possibly you know more generic organizations as well, more generic national organizations as well.

So in other words simply leave the door open for the GNSO to decide a little more general cases instead of simply redoing the IOC and RCRC.

Jeff Neuman: Okay thanks Alan and Chuck I'll wait to get those from you.

Charles Gomes: I'm working on it.

Jeff Neuman: Okay let me go to (unintelligible).

Wolfgang Kleinwachter: I'm sorry, my boarding starts, bye and hear you on Monday.

Jeff Neuman: Thanks Wolfgang. Let's go to Lanre and then David or probably Jim.

Lanre Ajayi: Yes I just want to support the idea of having the general language, rather than special take on just your observation. I believe that to address some of the challenges you have been taking.

One is going to address the issue of precedence, a lot of media have been written about making a precedent out of this.

But if the language is generic then the precedent will go away. Regards to back end rules, and any revision that this goes are standard will be allowed to take advantage of the motion.

So I'm just generally in support of material these specific words, put this on the specific revision to be use of generic language. Thank you.

Jeff Neuman: Thanks Lanre and I think the general language I think is going to be a big issue that we talk about for the second level, not for second round but second level.

I don't know how general other than the amendments that are being proposed by Chuck and Alan, I don't know how general we can get it at this point but I think certainly for moving past this for the second level we certainly will do our best to try to get - to the extent that we think there should be extra protections.

And we'll certainly try to get that to more of the general as opposed to the specific. Jim?

James Bikoff: Yes I was just going to agree actually that if this is put in, the thing about the general language, if we're putting this in at all, it probably needs to go into that last sentence of recommendation three.

Because it's something that I think would be - we would not be able to complete it in time for the top level but certainly could be discussed in the second level.

And I think you know we at least are willing to discuss that when we start the second level discussions.

Jeff Neuman: Okay, thanks Jim, Alan?

Alan Greenberg: Yes, just a very quick one, I think we need to remember there are some groups who shouldn't be doing this at all, there should be no exceptions.

So whatever language we put in should be suitably vague that it's not committing the GNSO to doing the generic case and giving exceptions for the generic case but simply allowing them to consider the possibility of - you know otherwise we're going to have people again saying not only did they object to us saying widen - you know open the door wider when it should have been glued shut all together.

Charles Gomes: You took the words right out of my mouth.

Alan Greenberg: One other level of complaint.

Jeff Neuman: Thanks Alan and I think just for the transcript that was Chuck that agreed with Alan's last point.

Charles Gomes: And Jeff this is Chuck again I just sent the - my first cut at changing recommendation three. I haven't received it myself yet so we'll see. I can read it if you want me to.

Jeff Neuman: Yes it may take a little bit to come across the wire so that would be great if you could read it.

Charles Gomes: Okay, so I kept it at one sentence and I said protection must be reviewed after the first round and that review should include consideration of changing the language to general requirements rather than naming specific organizations.

And I'm perfectly open to edits.

Jeff Neuman: so that would be the full - that would replace the entire recommendation three?

Charles Gomes: Yes. What I deleted was should apply for all future rounds but may be reviewed, so that's correct.

Jeff Neuman: Oh right, okay I see.

Alan Greenberg: It's Alan, I think I have a comment but I just want to read it and have it in front of me first before I do that.

Jeff Neuman: Sure, let me go to Thomas and Chuck I just got the email so it should be getting to everyone fairly shortly. Thomas?

Thomas Rickert: Yes just wanted to say that I posted a proposal in the chat room, I think that Chuck's language is better but what I'm missing was Chuck's proposal is that we address both top and second level.

You know maybe we could merge the two proposals, I don't know whether everybody's in front of the chat room but I had the proposed protection should apply for future rounds but will be reviewed within the crafting of policy on the

general question of providing special protection both at the top as well as the second level.

Jeff Neuman: Chuck do you see that on the chat?

Charles Gomes: Yes I'm looking at it right now Jeff this is Chuck, the - I don't think we can say whether it's going to apply to - that would be preempting the bottom up process.

We haven't even finished it at the second level ourselves. Whatever protection is provided should - must be reviewed and I'm presuming would it help Thomas to say must be reviewed at the top and second level, is that what you're getting at?

Thomas Rickert: I'm missing the top and second level differentiation because that was a point that many of the commenters in the public comment phase made so I think we should put this specifically address that, that we're looking at these two issues.

Charles Gomes: Well it's Chuck again and the motion itself which is what my language is designed to change Recommendation three is only dealing at the top level.

Now that wouldn't prevent us from adding some language that it should be reviewed at the second level as well, we don't know where that's going.

So I'm open to suggested edits to that.

Jeff Neuman: All right so let's rather than wordsmithing it, I mean Chuck if you want to make those changes for the adding the top and second level send that around and then also look at the paragraph that's below recommendation three and see if any of that would need to be changed.



That's all part of the resolution. If you could take a look at that as well. In the meantime let me go to Alan.

Alan Greenberg: Yes I - just looking at it that perhaps addressing what Thomas just said in a much simpler way is preceding the word protection at the beginning of the sentence with any or all.

So that makes it clear that we are not only going to review other organizations but we will review Red Cross Red Crescent IOC and if anyone wants to read it in the first, second level too then that's all encompassing.

Charles Gomes: Jeff Chuck again, with regard to that previous paragraph I think we probably - if we agree on the change to recommendation three or I guess I'm looking at the paragraph after that instead of the one before.

The one after it definitely would need to be changed if we change recommendation three. Because it says the drafting team - let's see, it does agree with the notion that it is making this recommendation as one intended to apply for all future rounds.

We probably - it would probably be inconsistent to say that and to say that there must be reviews.

Thomas Rickert: I think it could be deleted completely.

Charles Gomes: Yes, maybe, yes.

Jeff Neuman: Okay so do you guys want to then - Chuck can I leave it as you action item and then so for shortly after the call you can send that around if you think 13 is for that paragraph?

Charles Gomes: Yes let's make sure of course that we - that everyone agrees on the change to recommendation three, because I'm not trying to impose my suggestion on everybody else.

J. Scott Evans: J. Scott, I mean so far I've heard like four variations so what you know are we changing it to?

Charles Gomes: Well I only sent one.

J. Scott Evans: Yes I saw that but then I've heard Alan and Thomas. I'm fine with recommendation three.

Alan Greenberg: Chuck just to be clear you're deleting the whole large second paragraph of the recommendation correct?

Charles Gomes: I didn't make any commitment on that, I just pointed out that we are going to have to change that paragraph after recommendation three to be consistent with the changes.

J. Scott Evans: Okay that's what I was asking was what you sent around a replacement for both paragraphs or just the first one.

Charles Gomes: No, just the specific recommendation itself.

J. Scott Evans: Okay.

Charles Gomes: The one sentence.

Jeff Neuman: I think the second sentence of that big paragraph still applies right, although the drafting team has not spent or erase that, we could say that the drafting team does agree with the notion that it is making its recommendation as one intended to - no.

That's going to need - Chuck when you go back can you - I don't mean to put this all on you.

Charles Gomes: I will.

Jeff Neuman: All right. So does anyone on the call disagree with the notion of Chuck's language at least for the core of the recommendation which is what he sent around in the email?

J. Scott Evans: This is J. Scott, I mean point of order, did we ever decide we didn't have consensus on what we already put forward?

Jeff Neuman: That's a good point.

J. Scott Evans: Because I still.

Jeff Neuman: I guess my question was does anyone feel like there should be changes based on the public comments? This was their response to that.

I can go back to the question of without that addition is there anyone that would remove their support from or change their position and then I could then call the second question which is do people support this change?

So I think we've heard from everyone on - they would like to see the response to the public comment, we've heard from some people that they would like to see this change to make it look more responsive to the public comments.

But I guess J. Scott's point is exactly right. Based on the motion that's currently written, so putting aside the - putting aside what we were just talking about, about a proposed amendment, is there anyone on this drafting team that's on the call, has anyone changed their view from where they were on March 2?

Or I should say it wasn't March 2, it was prior to the Costa Rica meeting when I had the consensus call. And I'm not seeing - I think Jim's hand is up but I think that's for something else.

James Bikoff: That was for something else Jeff.

Jeff Neuman: Yes.

Charles Gomes: Jeff this is Chuck, I'm not sure what you're asking whether we've changed since March 2, obviously I haven't gone back to the registries to see with regard to this latest change proposed.

I have personally changed my view in that I think it would be helpful if we made some slight modifications to address the comments.

But it doesn't change my - the registry's overall view in terms of support of the motion, does that make sense?

Jeff Neuman: Yes I think it does and I'll let J. Scott jump in but I guess what we're trying to figure out right now is two things, number one is whether the public comments have changed the support or the motion or non-support.

And then two is to the extent that there's a friendly amendment proposed, one which I get guarantees from the rest of the council that that amendment is accepted will not delay any matters.

I want to get people's opinions on that amendment because I do think in certain circumstances that amendment is helpful to at least show responses next to the public commentary.

So let me turn it over to J. Scott because he's posted a couple things that would be good to actually...

J. Scott Evans: I agree with Chuck that it would be helpful but it seems to me that where we need to be now is because we haven't consulted with our constituencies.

Is if we say where we are, we want to do some friendly amendments, can't that happen at the meeting Jeff? Couldn't you take a friendly amendment at the GNSO meeting and say I want to add a friendly amendment, I believe this is responsive, blah, blah, blah.

We could have all done that.

Jeff Neuman: Yes.

J. Scott Evans: I think that would be better than trying to do it now and then trying to make sure that nobody's going to say within our constituencies that now they have a different view.

I think you know we've got this, I think Chuck raises a good point and I'm happy to take that back to the IPC and I'm happy to if they are happy with it to make the friendly amendment.

But I don't want to mess with this language if we've got consensus on that.

Jeff Neuman: Yes, okay. Let me go to Jim and then Alan.

James Bikoff: I was just going to say Jeff that I'm concerned mostly because it's Wednesday and you know this vote is Monday, this coming Monday and that if people start going back to their constituencies we may not have you know a clear mandate at the vote.

So I'm wondering if these things could be done at some point either Monday or after the vote, I don't have any real problems with that, I'm just concerned with the wait.

Jeff Neuman: Yes and Jim I share your concerns, I was just hoping that if there was going to be a friendly amendment posted we could all discuss whether we would consider it friendly.

Ultimately it's whether since I proposed the motion it would be whether I would consider it friendly and of course I'm friendly, I want to hear from you all.

So I guess I was just trying to get some feedback on that. Let me go to Alan and then we'll circle back.

Alan Greenberg: Thank you. I thought what J. Scott had proposed was in fact what we're doing, that is a motion is on the table in the GNSO to change it we will need GNSO process.

But I thought we were trying to come to closure on what the wording is so there won't be extraneous discussion and too extensive a review of it at the GNSO meeting.

So I think the formal process is it must be done as a friendly amendment at the GNSO meeting or just prior to it in - you know in email.

But I thought our process was to try to come to closure so that we didn't have any surprises at that point.

With respect to the actual content, I think changing the may be reviewed to must be reviewed is very responsive to the comments that said this should not have happened to begin with.

And by making that change we are saying that the board action to you know strong language to usurp the bottom up process s we are saying is restricted to just the first round as they did and not - it can't slip into the second round.

So I think that is responsive to the comments being made.

Jeff Neuman: Okay, so thanks Alan. So what I'm hearing and I'll try to sum it up. What I'm hearing is that the general feeling is that everyone is still even after the public comments everyone is still in the same position they were before the public comments came in.

AS far as the support or non-support for the initial motion.

So J. Scott I think that's the ultimate outcome. I think though it would be helpful if Chuck could circulate some language that we could quickly run through our groups to say hey if this were proposed as a friendly amendment would you all consider this to be friendly or one that would - or should be voted on separately.

The only one under GNSO process really that would be considered friendly or not is really me and the person who seconded the motion but it would help me greatly to hear your views on that as to whether I consider it friendly.

Does that make sense?

J. Scott Evans: Yes I agree, I'm fine with that and I agree that - you know I'm a big proponent of you know if we're going to have a public comment we should at least whether respond to it or take action so I'm fine with that.

You know I just want to make sure that we know that if we don't get it, we're all okay with this.

Now I'm okay with this as it is. I'm also okay with amending it as Alan and Chuck are talking about. I think that does respond and I think it does add some clarity.

Jeff Neuman: Great. Okay anyone else have any thoughts or comments on that? I know we're getting close to the end of the call, end of the hour. Okay we are going to continue on the - obviously we'll let everyone know how the vote comes out on Monday.

We are going to continue on the every other week schedule so we need to start getting into the second level.

On that we are going to again get Stephane to - because I don't think he's done it yet is to make the formal request to the GAC on getting the rationale on the more generic basis from the GAC as to behind their proposal.

I think a lot of it is in there but it's in the original proposal but I do think that they alluded to other research that they have conducted and shared amongst the GAC members.

And so to see that would be very helpful in our second level discussion and also I want to remind everyone of the three (unintelligible) wiki emails that went out on the different options.

The GAC at the GAC meeting, at least members of the GAC had expressed certain views as to which of the options they would prefer to see.

Not that that should be - that should dictate the way we come out but I just want to remind people of that and maybe I'll try, or maybe Brian could help me find the reference in the transcript to that from that meeting.

Any other - so just to sum up again Chuck is going to send out what he believes would be a possible friendly amendment that everyone will kind of take back to the groups and ask the question hey first of all do you still support the motion as is.



Second is you - if this were proposed in a friendly amendment would you support this as being friendly. I personally like - Chuck.

Charles Gomes: I'm sending it right now if that matters, so...

J. Scott Evans: And you're asking both questions because there were several people who don't agree that are not here.

Jeff Neuman: Yes so I will send that back out to the list after this call.

J. Scott Evans: I don't want to get accused of prejudicing anybody's views, so you know.

Jeff Neuman: Right, well either way the motion is what it is until someone proposes an amendment right?

J. Scott Evans: Ask them the same question you've asked the people telephonically.

Jeff Neuman: Yes, correct. Okay, so Chuck you're the last comment.

Charles Gomes: Well my message has made it to the list, I just changed that second paragraph.

Jeff Neuman: Okay great, everyone take a look at it, keep the dialogue going on the list and I look forward to talking at least to some of you on Monday and then our next call will be officially on the fourth of April.

J. Scott Evans: Okay.

Jeff Neuman: All right, thank you everyone.

((crosstalk))

END