

**ICANN
Transcription
IGO-INGO Protections Policy Development Process (PDP) Working Group
Wednesday 14 November 2012 at 19:00 UTC**

Note: The following is the output of transcribing from an audio recording of the IGO-INGO Protections Policy Development Process (PDP) Working Group Teleconference on Wednesday 14 November 2012 at 19:00 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:

<http://audio.icann.org/gnso/gnso-igo-ingo-20121114-en.mp3>

on page <http://gnso.icann.org/en/calendar/#nov>

Attendees:

Alan Greenberg – ALAC
Chuck Gomes - RySG
Lanre Ajayi - Nominating Committee Appointee
Osvaldo Novoa-ISPC
Chuck Gomes - RySG
Kiran Malancharuvil – IPC
Jim Bikoff – IPC
Brett Faussett – IPC
David Maher – RySG
Stephane Hankins – International Committee of the Red Cross (ICRC)
Elizabeth Finberg – RySG
Thomas Rickert – Nominating Committee Appointee
Mary W.S Wong - NCSG
David Heasley - IPC
Avri Doria – NCSG
David Opderbeck - NCSG
Ricardo Guilherme - RySG
Evan Lebovitch – ALAC
Robin Gross - NCSG
Heidi Vanderveen – At Large

Apologies :

Gregory Shatan – IPC
Iliya Bazlyankov – RrSG
Paul Diaz – RySG
Christopher Rassi – Red Cross

ICANN Staff:

Margie Milam
Barbara Roseman
Brian Peck
Berry Cobb
Glen De Saint Géry
Julia Charvolen

Julia Charvolen: Thank you. Good morning, good afternoon, good evening. This is the IGO/INGO Protections Policy Development Process Working Group on Wednesday 14th of November.

On the call today we have Lanre Ajayi, Brett Faussett, Kiran Malancharuvil, Osvaldo Novao, David Maher, Stephane Hankins, (Heidi Vanderveen), Thomas Rickert, Ricardo Guilherme. We have apologies from Iliya Bzalyankov, Gregory Shatan, Paul Diaz, Christopher Rassi and Chuck Gomes for the first hour.

From staff we have Berry Cobb, Brian Peck, Margie Milam, Barbara Rossman and myself Julia Charvolen. I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and over to you.

Brian Peck: Thank you Julia. Hello everyone and thank you for taking your time participating on this call. My name is Brian Peck and I'm (part of) staff at ICANN. And temporarily - I'm chairing this meeting until hopefully we can determine a working group chair for this group.

So first of all for those of you - I know there have been a couple more participants that have recently volunteered to join us with the group. We thank you very much and appreciate your participation and support.

If you haven't already, we do need you to submit a statement of interest. The link for providing that statement of interest as well as information on the content is available at the link on the - under the notes on the Adobe screen and/or can be found through the ICANN Web site.

The next order would be to determine a chair for this working group. At to date we've at one nomination placed by Chuck Gomes for, excuse me, Chuck Gomes for Thomas Rickert. At this time would like to see if anyone

else is willing to volunteer and/or would like to submit a nomination for the working group chair.

Avri Doria: This is Avri Doria.

Brian Peck: Yes Avri.

Avri Doria: I'd like to second Chuck's nomination of Thomas.

Brian Peck: Okay. All right. Anyone else either for nomination and/or volunteer? Okay. Thomas, I understand you were traveling at the time that Chuck placed his nomination and so obviously we welcome you to the call and first of all would want to confirm indeed that you'd be willing to accept the nomination.

Thomas Rickert: Thanks very much Brian. After careful consideration, I am happy to accept the nomination.

Brian Peck: Okay. Great. All those in favor or any objections. May be easier that way.

Kiran Malancharuvil: No objection from the IOC.

Brian Peck: Okay.

Brett Faussett: This is Brett. I vote in favor of Thomas.

Brian Peck: Okay.

((Crosstalk))

Lanre Ajayi: This is Lanre. I was (unintelligible) about Thomas.

Brian Peck: Okay. Thank you. Any objections? Okay. I think Thomas, I think you are formally nominated as the Chair of this working group for the IGO/INGO PDP.

Thank you very much for volunteering and for your service. And I'd like to with gratitude and appreciation turn it over to you.

Thomas Rickert: The first question that I wanted to ask you is whether you could save me for today.

Brian Peck: Okay.

Thomas Rickert: Because I'm definitely coming back to my desk and I haven't had the chance to listen to the mp3 after last call and I think I wouldn't be in a good position to lead...

Brian Peck: Okay.

Thomas Rickert: ...discussion but I'm more than happy to do so next week.

Brian Peck: Okay. All right. Just for those of you who are new to the group, just a brief summary before we get into today's agenda, which again is in the notes; the group has met two times prior to today.

The group last week agreed to and adopted a draft working group charter, which has it has since been submitted to the GNSO Council for its consideration at tomorrow's GNSO Council meeting. The motion was submitted by Lanre. We thank you very much for his support and assistance in getting the motion in by the deadline. So the working group charter is set up for consideration by the GNSO Council at tomorrow's meeting.

In addition, the discussion and probably the focus of today's discussion is to review - there's been a proposal set forth by some members of the working group to draft and to submit a formal request to the General Counsel's office of ICANN with regards to a bigger review.

And there has been some discussion both during the meeting last week online since that time on the list. And we have in front of us thanks to Berry Cobb kind of a summary of where the current draft of the request stands. And so that's I think probably the focus of today's meeting is to further discuss how to craft this particular request in terms of the scope of review and how to frame the question or questions to the General Counsel's office.

So that's kind of a brief summary of the work to date and again probably the focus of today's discussion. Any questions on that? Okay. With that then, why don't we go ahead and take a look at the, as I said, the standing discussion on how to frame the legal request.

There was a - the original proposal was submitted on behalf of the registry stakeholders group by David Maher. And as I said, there has been some discussion within the group both during last week's call and online since then. This document hopefully reflects kind of a current status of that request and a proposal and subsequent comments.

And so at this point I don't know David, if you wanted to provide a brief summary update or just open it up to the floor for comment and question at this time. David, I'm sorry, you have your hand raised, sorry. Thank you.

David Maher: Yeah. I had a question. And that is on the screen the paragraph at the very end in red. I hadn't seen that before. Where did that come from?

Berry Cobb: This is Berry. This was based on the second version that was sent around on the list. And if my memory serves correct, Jim Bikoff had produced these changes that you see reflected at the top in red.

David Maher: Yeah. Okay. Thank you. Well I previously said that I didn't think that that phrase added by Jim was relevant to the question. But in the interest of moving forward, I'd be willing to accept that. And also I am again in the interest of moving forward I don't object to the paragraph at the end.

So as far as I'm concerned, the language as it stands on the screen is a reasonable way of proceeding.

Brian Peck: Okay. Thank you David. Any other comments or questions?

Kiran Malancharuvil: Hi. This is Kiran. I have a question.

Brian Peck: Sure.

Kiran Malancharuvil: There was the additional language that was sent out by Greg Shatan. This version doesn't seem to reflect his changes.

Berry Cobb: This is Berry. That is my bad and I'll get something - I'll get that posted here in a minute.

Kiran Malancharuvil: Thanks Berry.

Brian Peck: Okay. I have Ricardo and then David, I'm not sure if that was from last time or if you have your hand up again. Ricardo.

Ricardo Guilherme: Yeah. I Brian. Hi everyone. It's first time I'm participating in the working group. Although you may have seen my name floating around in other papers issued by the UPU or written on behalf of the IGO community.

And I was just wondering whether it's really appropriate to again, and bear in mind some comments made also by several GAC members, that the analysis - any analysis to be performed in this - on this topic should be done on an objective basis and we doubt like specifying names of organizations such as - or (movement) such as the IOC and the Red Cross.

So the problem for me is that the way this question is currently being phrased gives the impression that the - any legal advice or information to be obtained

form the General Counsel would necessarily take into account the conclusions that had already been drawn from best analysis or studies.

And, as you know, and I don't want to of course create a lot of noise here but there has been a lot of discussion on the way this analysis had been performed, the causes raised by the - the arguments raised by the IGO community in general.

And I wonder whether it would be really useful to preempt the conclusions of such a legal review as well as the activities of the working group by mentioning two specific organizations in that text. So if you could just perhaps clarify to me the reasons behind that additional language that would be useful. Thanks.

Brian Peck: Okay. Thank you. David.

David Maher: Yeah. I'd like to answer that. I don't think that this question preempts anything. The problem is that the previous legal analysis does not address this particular question because this particular question is intended to provide a basis for an understanding by our group of the scope of our work. And I believe that the scope of our work is to determine a policy.

And the question that we're asking the General Counsel is whether there were any legal parameters that would limit in effect the scope of the policy work. That's the intent of the question.

There's a good example that illustrates why this question needs to be asked. I pointed out to Mr. I think it's Shatan in email that as an example there is a registration of redcross.biz. This domain name is held by some party and I'm not sure who it is but it's not the Red Cross.

The name is for sale. There has been no legal interference with the registration of that name. And my question - or I think our question to the

General Counsel should be whether or not there is a legal restriction for that inquiry.

Brian Peck: Okay.

David Maher: I see the new language that's been posted that I think represents Mr. Shatan's views. And I've responded to him by email. I think these (minutes) are not acceptable in my view.

Brian Peck: Okay. Thank you David. I have Evan next in the queue.

Evan Leibovitch: Hi there. My name is Evan Leibovitch. Just as a matter of introduction, I'm Vice Chair of the ICANN At Large Advisory Committee based in Toronto. And I guess I'm coming into this group not from a legalistic sense but simply as a matter of trying to advocate and put forward the public interest for end users of domains within ICANN.

And I just want to speak against the earlier comment in saying that it is absolutely necessary for us to deal in some cases with individual names and individual applicants. There's within At Large a very, very varying agreement on the public interest in certain kinds of names and certain specific names being protected. So I don't think that should be out of scope here. Thank you.

Brian Peck: Okay. Thank you. Ricardo.

Ricardo Guilherme: Yeah. Thanks. Just as a follow up comment on both David's and also Evan's latest comment. I think that the point I'm trying to make here is that I'm a little bit concerned with the language in the sense that it already not only seems to give the impression that conclusions are going to be drawn from previous activities or studies performed on those two organizations when as a matter of fact the intent of this activity under the working group is to define on an objective basis and not already pre-specifying names of organizations but to define on an objective basis the protections that IGOs are receiving as well

as certain INGOs, which in this case may include or not include IOC and the Red Cross.

So the concern that has been raised on the previous occasions was that if you're already saying this - that the legal review is going to take - it has to take into account some work previously done. This gives an impression, and I'm speaking strictly from a language perspective, that the legal review shall already use some of the considerations that have been published on previous occasions.

And I wonder what the usefulness of this is because the legal review is supposed to examine again on an objective basis and not just talking for example about - not talking about the UPU or not talking about IOC but talking about IGOs in general as well as certain INGOs and on the basis of certain parameters that are still - they still have to be defined.

So that's the point I was trying to make. Of course respectfully I don't want to stir the pot very much. I just started participating in the working group. But I think it is important to raise that point to the group. Thanks.

Brian Peck: Okay. Thank you. Alan.

Alan Greenberg: Thank you. I'm not a lawyer. But if I was the legal counsel that this was directed at, I would think I would be somewhat insulted. Because if you look at the converse to what we're talking about, it's - we're asking Legal Counsel for opinion but we - but they should ignore things that already have been in.

We're not saying they have to accept the contents of previous work but just they should be cognizant of it. I would like to think that Legal Counsel that ICANN is paying lots of money to would not ignore documents that are already around in making a - giving an answer to this new question. You know, would not blatantly ignore it. Would not disagree with it but not mention it.

This sounds like simply we're telling them to do due diligence and I don't think we need to spend a lot of time telling them that. Either they're going to do a good job or they're not. And if they're not - extra words that we put in are not likely to change that. So I think we're spending a lot of valuable time without a lot of real substitutive outcome. Thank you.

Brian Peck: All right. Thank you. Kiran.

Kiran Malancharuvil: Actually it's Jim so I'm passing on to him.

Jim Bikoff: Well I was just going to say in response to Ricardo's comment that since he was not a member of the prior group, he may not have had the background on what was discussed and the opinions that were previously rendered some of which may be relevant to the future work of this PDP Committee.

And my - the only - the language was added at the end of the last call at the request of members of this group to try to make sure that we didn't duplicate things that were done in the past by ICANN Counsel or ICANN outside Counsel and that was the sole reason for that language.

It does not preempt any inquiries that are going to be made or studies that are going to be made in the future. And it was just an attempt to avoid duplication of effort.

And as to conclusions, we don't know if we're going to get conclusions or if we're going to get simply some opinion as to specific answers for the questions. That's all I have to say.

Brian Peck: Okay. Thank you David.

David Maher: I accept that.

Brian Peck: Okay. Wait till there's a - okay. Thank you. Thanks Berry. Any other comments or questions or points? I'm just waiting for the screen to upload here. Ricardo.

Ricardo Guilherme: Sorry Brian. I don't want to extend the discussion too much. But maybe I would just make a suggestion that because we've had a fair amount of activity surrounding the (coverage elijio) names and acronyms as well. And as you may know, the GAC already provided also some advice in Toronto in this regard.

So instead of simply mentioning two organizations in that language, I would suggest that the text also refers to IGOs because this - there has been a lot of discussion, a lot of activity and also the recent GAC advice provided through its communiqué of Toronto.

So I would suggest adding - taking into account the work previously done regarding the IOC Red Cross, Red Crescent as well as IGOs or something like that. I don't know if this is acceptable to the group. Thanks.

Brian Peck: Thank you. Any additional comments, responses to Ricardo's suggestions or...

Jim Bikoff: It's Jim Bikoff.

Brian Peck: Yes. Jim, I had David raised his hand first so if I...

Jim Bikoff: All right.

Brian Peck: ...can get David and then you Jim. Thank you. David.

David Maher: As I said before, I think the taking into account the work previously done is not entirely relevant to the inquiry that we're making. The work previously done that I'm aware of including the GAC communiqué does not go to this

specific question. On the other hand, again in the interest of making progress, I don't see any particular harm in including it. So I'd be willing to accept it.

Brian Peck: Okay. Thank you David. All right. Jim.

Jim Bikoff: Yeah. The main reason for this language is not the GAC communiqué but the fact that this question was referred to ICANN Council in the past, not these specific questions but the question of entitlement of these two specific groups, the Red Cross and the IOC. And there was work done by the General Counsel. We discussed this at several of the IOC RC meetings in the past. And also there was some outside Counsel involvement.

We do not have those reports but they may be very well relevant to some of the things that will be discussed in this PDP group. And that was the intention there. So I think for us - for many of us I think the question of IGO protection is not a question that we have, you know, studied yet in this group. And I think that the reason for this PDP is to study those questions and come to some conclusions within the PDP group.

Brian Peck: Okay. Thank you. Avri. Avri, perhaps you're on mute.

Avri Doria: Apologies. I was muted.

Brian Peck: Sure.

Avri Doria: I think that obviously we want them to take all previous research into account. And I wouldn't be surprised. The whole issue of the IGOs was up before the GNSO several years ago. And I believe at that time the Counsel had - I mean the General Counsel had done some work and research on it.

So I think that, you know, I don't think we have to get too specific about which of previous work they have done that they should take into account. They should take into account any of the previous relevant work that they've done.

They did some work in doing the issues report. And they've probably done work at various points. So in some sense I'm agreeing with Alan, not that I expect the lawyers would be insulted. They would just repeat the hours and make more money.

But I think that it does make sense to sort of say take into account any previous research that has been done on these issues. And whether we use the names or not, I don't know that it really matters.

I do want to make sure that I think that when we've seen some of this research we've seen it in redacted form and I would like to make sure that anything that's done and can come back to this group that we're getting a lot of redactions in the research because that renders it a lot less useful. Thank you.

Brian Peck: Thank you. Ricardo.

Ricardo Guilherme: Yeah. Perhaps just one final comment. Thanks. Following up on Avri's remarks. That at least the way I read the language right now doesn't limit to - itself to studies performed by the General Counsel.

So I think we have to be very careful here just to say take into account the work previously done regarding IGOs as well as IOC Red Cross, et cetera. Because when we look at the document links for the charter for example we have a lot of information that's shared to the community, which is not limited to individual analysis by the Office of the General Counsel at ICANN.

Especially for - because we also have or had some considerable issues with the content of that analysis on past occasions. So I would just say again, reiterate that the fact that this analysis should take into account or at least acknowledge any work previously done including as the case may be GAC advice, GAC studies, GNSO studies, General Counsel studies and so and so

forth without needing to specify from where this information is coming.

Thanks.

Brian Peck: Okay. Thank you. Okay. We had, you know, the additional suggested language by Ricardo. (Unintelligible) an interest of voting for (unintelligible) to that. Any other comments on this suggested additional language that Ricardo has (provided)?

Berry Cobb: Brian, this is Berry. You may want to repeat some of that. You were breaking up (really good).

Brian Peck: Okay. I'm sorry. I apologize. We have a - some additional suggested language provided by Ricardo to make it a little broader in terms of, you know, that any previous work done related to the IOC and Red Cross in addition to the IGOs be taken into consideration.

David Maher has mentioned or has stated that in the interest of moving things forward he would - could agree to that such language. And so just wanted to see if there are any other comments or objections to adding this proposed language provided by Ricardo.

No. Okay. I guess Berry if we could go ahead and add that to the text.

Berry Cobb: This is Berry. I'm making those changes now.

Brian Peck: Okay. And in the meantime Mary Wong has her hand raised. Mary.

Mary Wong: Thanks Brian. Thanks Berry.

Brian Peck: Sure.

Mary Wong: Maybe it'd be helpful when we see it in the text. I was just wondering whether taking the - should be taken into consideration, what does that mean and where would it fit, by whom for example?

Brian Peck: I think Mary as soon as we get a new document up...

Mary Wong: Yes.

Brian Peck: ...it'd probably be easier for you to see.

Mary Wong: Sorry. I raised my hand prematurely.

Brian Peck: That's okay. Indulge me with patience for a minute here. Thank you. Ricardo, I see you have you hand up. Is that from before or do you have a new...

Ricardo Guilherme: Yeah, no. Just - I mean I don't have the - I'm also having some connection problems but I'm calling from home. But I could perhaps send it to you - to the group early tomorrow morning or - because it's already almost 9 o'clock for me here in Switzerland. So whether this is acceptable to the group.

Brian Peck: Okay. Well I think we're getting up the - your proposal - it's uploading right now on the - I apologize. I understand there are a couple of people having some problems with Adobe Connect. But perhaps we can read it off and then if that's acceptable.

Ricardo Guilherme: Yeah.

Brian Peck: Okay.

Berry Cobb: So this is Berry. Basically all I did here was just strike out the specifics for calling out specific organizations. And if the working group would prefer, why

don't I just start with the - should I start with a clean version instead of this red lined version? (Unintelligible).

Evan Leibovitch: This is Evan. Could I ask you start with Version 2? I object strenuously to Mr. Shatan's version. You've changed his version, not Version 2, which is the one that we've I think had more or less consensus on.

Berry Cobb: Okay. Give me a minute.

Brian Peck: We appreciate your patience. We should get something up shortly. Thanks. David, I'm sorry. You have your hand up. Is that from the previous or do you have...

David Maher: That was from the previous.

Brian Peck: Okay. Thank you.

David Maher: I'm just waiting.

Brian Peck: Yeah. We appreciate your patients. We should get it up shortly. Okay. Great. Thank you David. Or thank you Berry, sorry. Okay. Ricardo.

Ricardo Guilherme: Yeah. No Brian, just a suggestion. I was - in terms of language.

Brian Peck: Sure.

Ricardo Guilherme: I was just typing something myself here. And I could put it maybe in the chat - in the chat.

Brian Peck: Okay.

Ricardo Guilherme: I can read it out loud if you want.

Brian Peck: Okay. And in the meantime I mean just for the sake of everyone on the call, Berry has posted the version currently up for consideration, which, as Berry has mentioned, suggests having - rather than taking up - rather than having specific names of the IOC and Red Cross, the question is just to say the working group requests that any previous correspondence determination and research from ICANN General Counsel or ICANN outside Counsel be provided as a matter of expediency without duplicating previous efforts.

Ricardo Guilherme: Okay. The only suggestion I would have in addition to that I'm fine with it. But I would just suggest also the addition of language right after previously done to say something like as well as any relevant information shared on this topic or something like that.

Brian Peck: Okay. All right. David.

David Maher: I don't see a need for that. The work previously done I think certainly would include relevant information shared. I don't think we're improving this version at this point.

Jim Bikoff: This is Jim Bikoff. I agree with David.

Brian Peck: Okay. Ricardo.

Ricardo Guilherme: Yeah. My only concern and I would - I apologize again for taking the floor once more. But just that if we simply say take into account the work previously done, one may ask what exactly constitutes work because if you're simply talking about the work performed by the General Counsel, this is one thing.

And another thing is to say to refer to or at least include information - relevant information shared with the community or other advice provided by other groups and so on and so forth. So it's just a matter of covering all the bases

here so that General Counsel can have a wide range of information to take into consideration. Thanks.

Brian Peck: (Okay. Thank you. David).

David Maher: That - it doesn't say work done by the General Counsel. It says work previously done. Again, I think this does not add to the clarity of the question.

Brian Peck: Ricardo too, again if you can see on the Adobe on the screen, the other paragraph that's at the bottom there in red I think might also cover your - I mean it says the working group requests any previous correspondence, determination or research from ICANN General Counsel or ICANN outside Counsel be provided as a matter. So I think that would maybe incorporate your concern about any other relevant information. Ricardo.

Ricardo Guilherme: Thanks Brian. The fact here is that we would not like this to be limited to previous research performed by either ICANN General Counsel or ICANN outside Counsel. Because some of - a lot of the information shared or even taken into account in some of the decisions and deliberations on this topic did not come from General Counsel or outside Counsel.

So that's why I'm still insisting in having either a more generic reference perhaps at the end just to exclude this. Just say any previous correspondence, determination and research on the top be provided as a matter of experience. These would then allay our concerns because then it wouldn't be limited to something that was performed by the General Counsel or outside Counsel. Thanks.

Brian Peck: Okay. Thank you. David.

David Maher: I would accept that.

Brian Peck: You would accept that.

David Maher: Okay.

Stephane Hankins: Yes, if I may, this is Stephane Hankins (ICRC). I mean in this regard there's also work that has been done and information provided by the GAC for example. They produce, you know, they - substantive report to support their recommendation of (unintelligible) September.

And in there there are also a number of questions and recommendations, which I think will have to come into consideration of the research as regards of protection of the designations in multiple languages and issues of the kind and of course under the relevant legal regimes that are in reference. So I do see virtue indeed of having that extension mentioned. Thank you.

Brian Peck: Okay. Thank you. Okay. Thank you Ricardo for providing it in the chat. So Ricardo has provided his suggestion in the chat for those of you on Adobe who can read it. And I understand that David would be willing to accept this. He does. And David does. Thank you.

Berry Cobb: This is Berry. So that's in addition to taking into account the work previously done and research on the topic be provided?

David Maher: No this is in the bottom paragraph. Taking out the words ICANN General Counsel or ICANN outside Counsel and replacing it with...

((Crosstalk))

David Maher: ...taking it out.

Brian Peck: Okay. Ricardo.

Ricardo Guilherme: Yeah, no, just the comment. I don't know who exactly made the comment now on the phone. But actually it is a valid point that if we're talking about

previous correspondence, determination and research, it was - my feeling is that we should simply replicate that above as well.

Then I think someone asked me whether this would be in addition. Yeah. The changes that I proposed on the chat here is they would read as follows so that any previous correspondence, determination and research on the topic be provided as a matter of expediency, et cetera.

So perhaps for consistency it would be better if we simply put the same thing - the same initial text from the last paragraph above. Or we define work as being all of the three points below. Just a matter of consistency. I'm sorry if I'm being very technical on this with the language. But I was just wondering about this. Thanks.

Brian Peck: Thank you.

David Maher: I have no objection to that.

Brian Peck: Okay.

Berry Cobb: This is Berry. I'm PDFing this now and I'll post it to the room in a clean form.

Brian Peck: Okay. Thanks Berry.

Ricardo Guilherme: I just sent something to the chat here.

Brian Peck: Okay. So we have a current version up on the Adobe screen.

David Maher: Looks good to me.

Brian Peck: Okay. And Ricardo, yeah, okay. Thank you Ricardo. Mary I see yours. Any objections or comments on this current draft? Okay. David has, as I said, provided or submitted this as a proposal for the group to consider and adopt

as a full request from the group to the General Counsel's office. Do we have a second for this proposal?

Man: I'll second it.

Brian Peck: Okay. Are there any - well I think it's easier - I was - are there any objections to adopting this as a formal request that will be submitted from the group to the ICANN General Counsel's office? Any other concerns for points or questions? Okay. The group adopts this request in its current form to be submitted on behalf of the group to the ICANN General Counsel's office.

Thomas I believe the protocol calls for you as the Chair to, you know, to submit it to the General Counsel's office. So perhaps Berry if we can get a clean draft to Thomas and then Thomas if you have no object, you know, at your convenience I guess, you know, the group would like to have you submit this to the General Counsel.

Thomas Rickert: Sure. No problem.

Brian Peck: Okay. All right. Any other - before we move on to the next agenda item, anything else on the legal review request? All right. Thank you very much.

The next item on the agenda is, you know, (having the time) we - currently this call is scheduled for two hours. We're currently about 47 to 48 minutes into the first hour. So we have a little over an hour left to the extent that the group would like to continue discussions.

The next item on the agenda is to begin exploration of the issues defined in the draft charter and keeping in mind that the charter itself of course has not been formally adopted by the GNSO Council. But, you know, I'm giving also the request in the motion to adopt or the resolution initiating this PDP for the request by the GNSO Council to expeditiously move the work of this group forward.

We thought it'd be, you know, to accept again, the opportunity making it available for the group to begin considering the issues that are defined in the charter.

So with that, we do have the draft - the current draft that was submitted to the GNSO Council that is up for consideration tomorrow by the Council up on the Adobe room. And if we go down to mission and scope, Ricardo yes.

Ricardo Guilherme: You want me to wait for - maybe I can make my comments later.

Brian Peck: Okay. Sure.

Ricardo Guilherme: Okay.

((Crosstalk))

Brian Peck: All right. All right. If you go down to mission and scope, excuse me. And again, the...

((Crosstalk))

Brian Peck: Yeah. Berry, go ahead.

Berry Cobb: Everybody has the ability to scroll through the - on their own.

Man: Yeah.

Brian Peck: Okay. Thank you. Okay. If you go down to mission and scope, you know, again the resolution that was adopted by the GNSO Council at the (unintelligible) this PDP is to consider the need for any additional special protections at both the top and second level in all existing and new gTLDs for

the names and acronyms of IGOs and INGOs including specifically the Red Cross Red Crescent movement and the IOC as part of those deliberations.

The charter calls for the working group to consider the following elements. Quantifying the entities to be considered for special protection, evaluation the scope of existing protections under international treaties and laws for IGO Red Cross Red Crescent IOC names, establishing qualification criteria for special protection of international organization names and distinguishing any substantive differences, excuse me, between the RCRC IOC from other international organizations.

So we have those kind of threshold considerations for the working group to consider. Should this working group reach a consensus on recommendation that there is a need for special protections for the top and second levels in all existing and new gTLDs. Then of course the work would be move on to determining the appropriate protection for these names specifically for the RC IOC at the second level for the initial route of new gTLDs.

As you may know, there is a motion before the Council tomorrow that has been put forth by the drafting team that is working on this issue is specifically focused on the protection of IOC and Red Cross Red Crescent names at the second level for the first round of new gTLDs only. And that is to provide for an interim moratorium, excuse me, let me back up a little bit.

The recommendation calls for a solution to be reached through a PDP. However, if the PDP - this PDP is not completed at the time that the new gTLDs are delegated, then - as a interim solution to provide a temporary moratorium of those names as Red Cross Red Crescent IOC names in the reserve list in the Applicant Guidebook in the appropriate section. So that is currently before the Council tomorrow.

But moving on to that once there is determination of this group to that special protections are needed, determination what is the current special protections

should be made permanent and are being provided for the Red Cross and IOC names.

And if not, develop specific recommendations for that and then development specific recommendations for appropriate special protections for the names and acronyms of all other qualifying international organizations including both IGOs of course and any additional INGOs that meet whatever criteria as determined by this group.

So that's a very - sorry, quick summary of the issues that are in front of this group as defined by the charter. And with that, we'd welcome any initial comments or suggestions. Perhaps, you know, prioritizing these issues or how possible approaches that could be taken by the group or any other additional thoughts. And Ricardo, you have your hand up.

Ricardo Guilherme: Thanks Brian. I'm going to be - try to be quick and summarize my comments to the charter and I can't stay long either. My first point is specifically on the indent the beginning of Page 3. And I know I'm probably going to - probably going to draw some flack here but I'm really worried about the legal consistency in some parts of the text.

And when I start reading the second indent to determine whether the current special protections, et cetera, should be made permanent and so on and so forth; I read this together with the first indent, which talks again about the protection for those two (movement) organizations.

But at the end of the second indent and if not the valid specific recommendations for appropriate special protections, et cetera. Well I think the whole point of the group is to provide advice on who can receive special protections and why. And again this seems to be like preempting the conclusion of the group so that these two organizations specifically have absolutely to receive protections. And I don't want to get into the specific debate on whether one deserves or not but it's just a matter of consistency,

again, that we are already anticipating that these entities shall receive protection even if they're deemed as not deserving of permanent protection.

So I find it a little bit contradictory. So my suggestion would simply say to stop at - in all gTLDs and full stop. Because if it's not or if the unlikely conclusion of the group is that (these) or that entity does not deserve protection they shall not receive protection; it's pretty logical. So that's my first comment.

The - I don't know if I can already jump the gun a little bit, Brian, because of my time constraints. Under the deliverables and timeframes - also I had raised this issue within the RySG, Point 1, when it says that a PDP shall assume that the Council will approve, etcetera.

It's hard for me to understand the reasoning behind this because, again, we would be anticipating a certain result or not - something that doesn't really add value to the charter.

And my final comment on Point 2 of the same item, deliverables and timeframes, would be to suggest right after, let's say, (unintelligible) to exert interim recommendations (unintelligible) and in case (unintelligible) somewhere in this - within this paragraph to add language that refers to something like bearing in mind or acknowledging also GAC advice on the topic.

Because there has been already a lot of discussion from GAC members and a lot of tension in regard to this - to the (installation) of this working group. So perhaps it would be a way of allaying some concerns in that the GAC advice shall also be taken into account under this Paragraph 2. These will be my three comments to the document. Thanks very much.

Brian Peck: Okay. Thank you Ricardo. David and then Evan. David.

David Maher: Sorry, I was on mute.

Brian Peck: Oh sure.

David Maher: I was on mute, sorry.

Brian Peck: Okay no problem. Thank you.

David Maher: I agree with Ricardo's comments about the inconsistencies between the first two bullet points. Unfortunately the way the GNSO Council works they're going to be seeing this proposed charter tomorrow. And it's too late really for us to make changes in it. My suggestion would be that Ricardo prepare a note to the councilors and raise these issues.

It may be that at the Council meeting our - the stakeholder group councilors would be willing to make an amendment to the charter to deal with that inconsistency.

Brian Peck: Okay. Thank you. Evan.

Evan Leibovitch: Hi, thanks. I just wanted to raise the point that has come up multiple times in ALAC and elsewhere that the lumping together of all of these various bodies does not serve the public interest. And that you have a number of different protection regimes that exist to support them and a number of other public policy issues that are in hand.

I'd like to try and move for the adoption of an - of treating the three different things independently that - we have the Red Cross, we have the IOC that have been explicitly mentioned by the GAC and the - and the IGO and INGOs.

I think really that in order to do these justice from a public interest perspective that we need to allow for the independent evaluation of those three - those three particular issues. Thanks.

Brian Peck: Okay thank you. Alan.

Alan Greenberg: Yeah, I'll make a more generalized statement than what Evan just said. The premise certainly that I understood from the Red Cross IOC drafting team that has proposed - is currently - will be proposing some temporary protections for the first term - for the first go-around is that this PDP is going to be evaluating the need for ongoing protections.

And I don't think there was any presumption in that statement that we must make the same decision as the Board made in the temporary first-level protection or the recommendation of the drafting team in the temporary second level protection. We're supposed to be doing this back to square one and deciding in the long term should any of these organizations receive protection and if so what kind?

Now that may say we - the group decides that every IGO and INGO in the world gets strong protection, none of them do or some subset depending on criteria and the charter talks about establishing what the criteria is. So I - if everything is not on the table and there's already prejudgments being made then this is a twisting of what the intent was when this originally was asked for.

So I have some real concerns if there is presumptions regardless of the detail of the wording that we've already made some of the decisions. And in fact the wording says anything other than that, that everything is on the table, then I agree with David, it does need to be changed before the Council approves it. I mean, if we're going into this simply to rubber stamp then we have a big problem here. Thank you.

Brian Peck: Okay. David.

David Maher: Well I think if you look at the entire context I don't see that this draft charter needs to be changed. It would be nice to remove what is apparently an ambiguity. But if we had to wring out every ambiguity we'd probably be here forever.

I agree with Alan's point that our real goal is to look at this whole issue starting from ground zero. We are not - there are no predeterminations that bind us in any sense.

Brian Peck: Okay thank you, David. Any other comments on this particular issued raised by Ricardo? Okay. Any other points or comments on some of the issues here that have been defined by the draft working group charter?

I'm sorry, Ricardo and then Thomas.

Ricardo Guilherme: Yeah, no just to follow up on I think it was David who suggested that I send - or that you send the message to GNSO councilors. And I would just perhaps seek your help on exactly who should I send this to so that, I mean, if I can get this by email tomorrow morning that would be great if possible. Thanks.

David Maher: The answer is to send it to Jeff Neuman, Jonathan Robinson and Ching Chiao who are the councilors for the Registry Stakeholder Group because the UPU is a member of that group so it's appropriate to work through the three councilors representing the Registry Stakeholder Group.

Ricardo Guilherme: Okay thanks.

Brian Peck: Okay thank you. Thomas, you had your hand up; did you still want to...

Thomas Rickert: Yes, thank you. Thank you very much. I think it might be worthwhile asking the group whether they all supported Ricardo's points because I think it would be much easier for the Council to deal with that tomorrow if there was some

sense that it's just not just single member of the team requesting those changes. So, you know, you might want to ask whether there are any objections to the three points that Ricardo mentioned.

Brian Peck: Okay. Thank you, Thomas. David.

David Maher: I'm - I responded to Ricardo's first point. Could we have a very brief review of the Points 2 and 3?

Brian Peck: Ricardo.

Ricardo Guilherme: Yeah, thanks. Sorry if I took a little bit too long to present those points. So the first one, again, was just about the language and consistency in terms of if yes if not, etcetera. So I think David already responded to this.

The second point under deliverables and timeframes on specifically Item Number 1 I already raised this point on previous occasion within the RySG that I - it's really difficult to see how useful it would be to have this assumption that the Council shall take such a decision. I don't think this adds any value to the charter.

I think - I think it was Alan who said that this group is really taking sort of a new start in terms of analyzing the issues. Of course bearing in mind previous information, previous studies, etcetera. But to assume that the Council shall adopt one recommendation or another I don't think it adds any value to the text of the charter or the activities of the group.

So my recommendation was to simply delete this item Number 1. And I know - I'm sorry if I came kind of late to the game. But my suggestion if it's impossible right now to change this charter because, well, it has already been submitted that perhaps we as a group could convey this additional thoughts to GNSO tomorrow.

And my final point under the same item, deliverables and timeframes, but Paragraph Number 2, was to add somewhere here language that refers to acknowledges or bears in mind the advice provided by the GAC on this subject. Those are my three points. Thanks.

Brian Peck: Thank you, Ricardo. Alan.

Alan Greenberg: Thank you. I have to disagree completely on the second point. The Deliverable Number 1 assumption is what takes all responsibility on this group off of trying to meet the Board's 31st of January deadline. And that is an important issue. Otherwise this group is going to have to spend a lot of time over the next month and a half, two months, to try to address that issue and get something to the GNSO for approval.

The drafting team was charged with this. The drafting team's come up with a recommendation. And we're presuming that the Council will support that recommendation and therefore this working group does not have to deal with that subject. And that is a rather crucial issue.

Again, as has been pointed out we're supposed to be addressing the overall issue expeditiously to have a red herring or what could be a red herring to occupy us for the first few months I think would be very, very bad for the overall long term effect. So I feel strongly that that point needs to be there. And if the Council, for some reason, rejects those recommendations then we're going to be in an interesting situation. Thank you.

Brian Peck: Thank you, Alan. David.

David Maher: Well I agree with Alan.

Brian Peck: Okay thank you, David.

Jim Bikoff: It's Jim Bikoff. I agree with Alan also. And I think Ricardo's third point, though, I do agree with.

Brian Peck: Okay. Alan, do you have your hand up again?

Alan Greenberg: Yeah, on the third point I'm - I'm not quite sure what the intent is. I mean, we cannot ignore the GAC advice; we don't have to follow it. I mean, there may be an interesting situation way down the road if we decide the GAC advice is something that should be ignore and that ICANN should not ignore. The Board's going to be in an interesting position.

But so we need to be cognizant of it and factor it in. Doesn't mean we need to follow it so I'm not quite sure what the suggestion was.

Brian Peck: Okay thank you. Ricardo and then Thomas.

Ricardo Guilherme: Yeah, just a quick reply to I think it was Alan. Yeah, we - I acknowledge, of course, the intricacies of ICANN - different ICANN constituencies. And I was having - asking this question myself whether an advice provided by the GAC on public policy, international law, etcetera, would be binding on the other ICANN groups.

So what my intent - I don't really have like definitive language to be inserted in Paragraph 2. But it was really more along those lines of cognizant or like being aware of or taking into account or bearing in mind something like the - related to or similar to the language that was used for the legal review.

So, you know, to take into account or you acknowledge or you are aware of but maybe there's going to be a different conclusion from this specific group. So perhaps we can massage some language around this until tomorrow morning and we can share this with the group. That is acceptable. Thanks.

Brian Peck: Thomas.

Thomas Rickert: I agree very much with Alan just in terms of procedures the GAC advice is directed to the Board. And I don't think that it would be appropriate for a working group to sort of, one way or the other, preclude the Board's discretion.

So I think that if, you know, if the group chose to include language regarding the GAC advice it should be crafted in a manner that would not be - that would not sound as to binding or, you know, preempting a decision to be made by the Board at a later stage.

Brian Peck: Thanks, Thomas. Okay so I think what we have in front of us here is Ricardo has made some suggestions. We have some agreement on one or two and some disagreement on the other.

It has been suggested that Ricardo draft what maybe perhaps has been agreed upon or there's no objections to and sending that as a member of the Registry Stakeholder Group to the representatives of that stakeholder group on the Council for them to consider during their meeting tomorrow. Is that - does everyone agree with that assessment of the current point of discussions here?

David Maher: Well this is David.

Brian Peck: Yes, David.

David Maher: I agree with Number 1 but not with 2 and 3.

Brian Peck: Okay.

David Maher: Obviously Ricardo is free to send anything to the councilors on his own initiative. But I don't think it would be fair - others may want to speak to this.

But at least my view is proposals for - is second and third proposals I do not agree with.

Brian Peck: Okay. Thank you, David. Anyone else?

Jim Bikoff: It's Jim Bikoff. I would agree that Proposal 2 would not be acceptable. And I think that's all I want to say.

Brian Peck: All right, thank you. Well on following up on Thomas's point or was that perhaps is, you know, say to open up discussion. Indeed, you know, I think - Thomas, and correct me if I'm wrong, but I think what you were trying to get at is that if Ricardo were to submit something like this is it on behalf of the group or is it, as you say, as an individual member of the particular stakeholder group to which you belong to which is, you know, David pointed out of course you certainly can do.

So I just - I wanted to clarify, indeed, if that's, you know, it seems like, you know, there is some - obviously there is some disagreement on at least two of Ricardo's suggestions. And so I, you know, in terms of the one that was some agreement again I guess is this something that should be represented as a view of the group or whether it should be done individually on behalf of Ricardo and his organization.

Ricardo.

Ricardo Guilherme: Yeah, well just a suggestion to move forward again. I could prepare just like a very brief comment on Point Number 1. And Point Number 2 it seems like there was no agreement at all so we can leave that aside or I could perhaps submit something just on - on behalf of the UPU but I don't think that's going to be the case.

And for Point Number 3 perhaps it's still not clear the level of agreement that we have here. But we could - I could prepare some language that respects

the different attributions of the bodies and submit to the group for your consideration before we can maybe send something to the GNSO. If this is acceptable to you I could prepare something quickly for tomorrow morning and then we see.

Brian Peck: Open it up to the group. Is this something that the group would want to consider in terms of having something - at least on Ricardo's first suggestion or is something that, again, that the group would prefer to be done on an individual basis? Alan, sorry.

Alan Greenberg: Yeah, thank you. To be honest I think this is a make-work effort. We're all conscious of the fact that if we reject GAC advice we do it with some onerous impact on the end results. And we're not likely to do it blithely without thinking about it. So there's no way we're not going to be cognizant of the GAC advice. We may follow it; we may not. But we're not going to ignore it and pretend it isn't there.

Jim Bikoff: This is Jim Bikoff again. I think this should be done by Ricardo on an individual basis.

Brian Peck: Okay, anybody else? Thomas.

Thomas Rickert: Yeah, I think the discussion has shown the various views on that. And the reason why I was asking to - or encouraging you to ask the group what their thoughts would be and whether this could be a joint statement or not was just because I assumed that the Council in its discussion tomorrow would ask whether this is a consensus position of the team.

And I think it is good enough for us to be able to report back to the Council what the various views were to give them a more complete picture. And there are a couple of people that will be on the Council call tomorrow.

So I think that, Ricardo, you should just make your point in writing and submit it through the councilors of the Registry Stakeholder Group and I think that we will have enough information to inform the decision at the Council level tomorrow. So I agree with Alan that we might not wish to put more effort and work into this subject at this stage.

Brian Peck: Okay, thank you, Thomas. Ricardo.

Ricardo Guilherme: Yeah, just a final question. And - because it seems like for Point 1 there was no disagreement from the group. So we could still submit at least this first remark on the inconsistency of language as a group consensual position of the group. And for Points 2 and 3 either we drop it or, as the case may be, the UPU would submit an individual position.

So concerning Point 1 specifically would it be possible if I - would it be okay if I send you maybe some - just some very short statement and that could represent the views of the group? That's just to confirm what the way forward would be. Thanks.

David Maher: I think we'd all need to see it first.

Ricardo Guilherme: Yeah sure, of course.

Brian Peck: Is this something - Ricardo, do you want to put in the chat right now so that w - since we have the group here we could review it and then the group could decide whether to indeed endorse it or not given we do have a relatively short frame between now and the actual GNSO Council meeting.

Ricardo Guilherme: When is the meeting taking place, Brian?

Brian Peck: At 11:00 am - excuse me, yes, 11:00 am UTC time tomorrow.

Ricardo Guilherme: Okay so - because I was more thinking about like just a very short message. I cannot really prepare right now.

Brian Peck: Okay.

Ricardo Guilherme: But I could send it first thing in the morning tomorrow for all of you and then you can just like say whether it's okay or not and then we submit it as a group position. Otherwise - but it would be first thing in the morning in your mailboxes.

Brian Peck: Okay anyone - any - would the group be willing to at least consider Ricardo's language that he sends around?

Alan Greenberg: It's Alan. Point of order, first...

Brian Peck: Sure.

Alan Greenberg: ...first thing in the morning in whose time zone? I don't know...

((Crosstalk))

Brian Peck: That's true. Thank you, Alan.

Alan Greenberg: And the meeting is at 6:00 am my time so...

Brian Peck: Sure, it's 3:00 am on the West Coast of the United States.

Ricardo Guilherme: Okay.

Brian Peck: So it's - I mean...

Ricardo Guilherme: I can try to send it - because it's already 10 o'clock for me here...

Brian Peck: Sure, no, I understand.

Ricardo Guilherme: ...but I can try to send it right now right after this call to you all. And if you're okay with it then we can already have an answer still tonight from the group.

Brian Peck: Any objections to that? Okay. Okay so as we understand it, Ricardo, you'll address some language with regards to your first suggestion to send around to the group to see if you get a consensus from the group to endorse it as a comment on behalf of the group for the GNSO consideration of the draft working group tomorrow. Any other suggestions that you raise would be submitted on - solely on your behalf and not on behalf of the group.

Ricardo Guilherme: That's fine.

Brian Peck: Okay. All right thanks. Any other points or suggestions in terms of some of the other issues that have been defined by this draft charter? Okay we still have one other item - or two other items on the agenda; one is to review a second draft of a work plan that originally was submitted as part of the draft working group charter, you know, for consideration by this group.

The group obviously focuses attention on the working group charter itself in order to meet last Wednesday's deadline. So to be honest there hasn't been a lot of time, or if any, given to this draft work plan.

But it was drafted from the staff as a suggestion - at least as a starting point, again, given the request and the mandate, if you will, for this working group to work as expeditiously as possible and taking into account trying to condense a timeframe to moving forward.

And so, again, this is just a starting - purposefully for a starting point of discussion in consideration and so it's up on the screen right now. And

certainly welcome any comments or input that someone - anyone would have.

Berry Cobb: And this is Berry. Just to touch on some of our near term meetings. Next week the 21st of November is a day prior to a US holiday so the members may want to consider whether a meeting will be heavily attended or not. I recommend that we try to have the meeting given the expedited nature.

The second thing to note the session for the 28th of November there may be - the working group definitely should meet but just to point out that there may be limited policy staff assistance on that call. Certainly we'll be able to arrange all of the coordination of the conference call and the Adobe Connect rooms and those kinds of things but there will be limited staff support then.

And this is Berry. I'll also point out that the work plan that we have in front of you right now is just a very generic type plan. I think probably the bigger takeaway on this is just to point out - or more or less try to work backwards from April, which is around the time for the meeting in Beijing.

But there are some key level deadlines that are listed in this work plan as well as it'll give you a feel for the number of weekly meetings that we have, which for those that are new to the working group process they come up to you quite quickly even though it looks - or that you get the feeling that a certain effort is four months out. So ask that the working group be mindful of that.

And as we start to formulate more of the issues that need to be addressed this work plan will respond with that - with the other key milestones that we need to accomplish.

Thomas Rickert: Berry, this is Thomas. I have one question. Have you already reached out to General Counsel in terms of how long it will take for the - the review to prepare?

Berry Cobb: This is Berry. We've had some initial discussions about the request but we have not made a determination of the length or duration. But certainly Brian and I will take that action to get with Legal and understand what a timeframe might look like.

Thomas Rickert: It would be excellent to have at least an indication of the target date for that because I think we need to craft some of the action items that we will discuss surrounding that date.

Berry Cobb: Understood and we'll definitely carry that message forward and get back to you asap.

Thomas Rickert: It's Thomas again. I have another question. And this goes out to the group actually. We have - if I understand correctly all these meetings are scheduled to be two-hour meetings. And my question to you is whether we think that we can maybe condense the multiple meetings concerning one item into fewer meetings and do some more work preparing on the mailing list?

If you, for example, look at the response to charter questions, (formal) recommendations that would be three subsequent meetings, six hours discussion on the phone in total. I think we might be able to condense that a little bit even at the risk of, you know, maybe dropping one meeting to have more time to digest everything. Maybe I could get some views of the group members on this?

Brian Peck: Okay. David, okay, I'm sorry.

Alan Greenberg: Raise my hand.

Brian Peck: Okay.

Jim Bikoff: It's Jim Bikoff.

Brian Peck: Yes, Jim.

Jim Bikoff: I was going to say on Thomas's suggestion a lot of people in the United States will be traveling next Wednesday and I'm not sure how connections will work. So maybe that's an opportunity to do more of this online and have the meeting the following week.

Thomas Rickert: Thanks, Jim. I was rather thinking of those multiple meetings concerning one subject, right? I take your point and it's a good one. But if you look at the date of November 28, December 5, December 12 that is all on the same subject. And we have such duplication later on in the work plan as well.

And, you know, I'm more than happy to call for all these meetings. But I think that experience shows that there is at least some duplication, you know, with recapping at the beginning and all that. So when we're talking about one action item we might be able to maybe condense the work a little bit and maybe do it even in a shorter period of time than three weeks.

Jim Bikoff: Yeah, I agree. I didn't mean to limit my comment to next week. But I think that I agree with you that we probably could either cut out a meeting or two or limit it to maybe one hour on certain subjects.

Brian Peck: Okay. Berry, you have your hand up, sorry.

Berry Cobb: Thank you. Just to make it clear to the working group that what's presented in front of you now is a very generic template. It does not indicate the actual work load that may need to be performed from the charter.

And so you can literally think of these repeat items as just placeholders for further deliberations that may need to occur, subdivisions of work that may need to happen based on how the working group thinks that we should approach certain issues and certainly those things.

So I guess really the key here is all of these dates that are listed are essentially every Wednesday that we have an opportunity to meet and that's an opportunity for the working group to come together and deliberate issues and recommendations.

As I mentioned as we work through the next couple of meetings we should start to be able to formulate the exact amount of work that needs to occur not to mention based on hopefully input from the GCO, etcetera. But I suspect that by the beginning of December this current work plan will look completely different as to what types of tasks, issues to be addressed, recommendation formulations, creation of the initial report, etcetera, will look like.

And right now we've only pointed to the April area just because of the expedited nature of this working group. Certainly typically a more normal working group or on a more natural timeline is closer to a year where a lot of these same tasks are created and performed. So again this is just a template.

And as we refine actions that need to be required by the working group this should change substantially. The dates may not necessarily change but certainly the deliverable or topic of discussions will.

Brian Peck: Okay, thanks, Berry.

Stephane Hankins: Excuse me, this is Stephane Hankins, RCRC. I don't have the computer page before me so I can't put my hand up.

Brian Peck: Okay.

Stephane Hankins: I was just wondering how the working group is expected to proceed. The assumption is that the legal question that we've been discussing and the report that will be produced will feed the legal - the strong legal dimension of the reflection that we'll be given to have.

Is that the assumption? Or - because I mean, the questions that we - that are to be addressed, I mean, we could write a thesis on one or two of them. So I'm just wondering, you know, how this is - how this is going to proceed; whether, you know, how - where we're going to - who are we going to resort to for legal expertise at least on, you know, the specifics of given organizations or given designations, I would say? Thank you.

Brian Peck: Thank you. Okay any other comments or points on the scheduling or the work approach for the group? Alan.

Alan Greenberg: Yeah, thank you. In regard to Stephane's question I think it's going to depend what the answer is. If we get an answer back from General Counsel saying yes it is illegal for ICANN registries to register certain names or registrars to use certain - to register certain names; we should have told you that before but we never did but we know it's illegal - then our conclusions are pretty simple.

I don't even think we need policy process to say we don't - we shouldn't do things illegal. Our contracts already say they can't do things that are illegal. It becomes far less clear if the answer comes back saying there's no legal restriction; then we actually have to make a decision, which indeed is what we're here for I think.

We need to get that off the table first but I don't think it's - it's not likely to change our requirement to actually make conscious decisions, which leads me to the conclusion that we're going to have a few more week's work than what is discussed here to be able to come up with a preliminary report. Thank you.

Brian Peck: Thank you, Alan. Anyone else? Okay our final agenda item is our next steps and to confirm a time for the next meeting. As I think some have already mentioned on today's call there is - next Wednesday - the 21st of November is the day before a major US holiday where maybe several people at least on

the US side may be traveling or not available. But that obviously doesn't preclude scheduling a meeting.

So would - we'd open it up to suggestions of when the next scheduled meeting should be as well as any other next steps. I mean, I think obviously the first threshold is whether the GNSO Council adopts the working group charter tomorrow and of course formally submitting the request from Thomas to the General Counsel with regards to the legal review. Those are the two immediate next steps.

And of course, you know, the responses to those would help dictate, I think, our future work - the future work of this group. So with that, as I said, we'll now open it up to suggestions of whether we still try to plan the next meeting for next Wednesday the 21st or to wait until the following week, which I believe would be the 28th of November.

Ricardo.

Ricardo Guilherme: Yeah, my only suggestion again would be to perhaps find a time that doesn't go away after normal working hours in Europe. So if you could just find some compromised time perhaps like 6:00 pm or 7:00 pm or 6:30 pm for us here that would make it easier for people in Europe to participate. Thanks.

Thomas Rickert: Yes indeed.

Margie Milam: Brian, it's Margie. If I may?

Brian Peck: Yes, hey, Margie, please.

Margie Milam: Hi. This is Margie Milam. Also the week after Thanksgiving is a policy retreat so we won't be able to have Brian or Berry on the call that week unless we do it really early, you know, Pacific Time, because we're all in policy management meetings so we won't be able to participate. We can have

secretariat support but you'd be without, you know, real substantive support if you want to proceed during that week.

Thomas Rickert: So you would be absent the whole week as of the 26th?

Margie Milam: Our retreat is Tuesday, Wednesday, Thursday and then half day Friday of that week. And again it would be myself, Berry and Brian that would be out. I think Julia would be available to coordinate the call so, you know, you'd have Adobe Connect and you've have secretariat support. But, you know, in terms of getting any substantive help, you know, you'd be missing three of us.

Thomas Rickert: And what about the 26th then?

Brian Peck: Yeah, the 26th is - oh the 26th is a Monday, yes, I'm sorry, that's...

Margie Milam: Yeah, so in the morning - the morning of the 26th we could - I think we start our meetings 1:30 Pacific Time on Monday.

Brian Peck: Which would be 9:30 UTC - excuse me - well, I'm sorry, 2130 UTC, excuse me. So if there's, you know, a possibility of scheduling it beforehand then we could certainly be available.

Thomas, would that be a possible alternative for that particular week?

Margie Milam: Oh it looks like Thomas may have been dropped.

Brian Peck: Oh, yeah, he's typing, yeah okay. Yeah he's saying he would not like to skip two subsequent weeks. And so I guess let's see what he says here. Maybe perhaps, Margie, an alternative would be that Monday the 26th before, you know, before 2130 UTC time.

Margie Milam: Yeah, we could do that.

Brian Peck: You know, if the group is - if that's possible for the group.

Alan Greenberg: It's Alan. This is a large group only a subset of which are on this call.

Brian Peck: Yes.

Alan Greenberg: I'm not sure we can really unilaterally change it and presume other people can attend.

Brian Peck: Yeah. You know, the other option would be is to keep the same day but then perhaps, you know, as Margie suggested, I mean, you know, at least, you know, for this - I mean, I understand Thomas's concern about skipping two weeks especially given the, you know, trying to expeditiously move this PDP work forward.

You know, it would be possible if - to keep the same day but just have to schedule it a few hours earlier. I mean, that - I mean, I'm certainly willing to...

Alan Greenberg: Or maybe one staff person can be given dispensation for two hours?

Brian Peck: Yeah, that's up to the powers that be...

Margie Milam: I need them. We have a lot of work to do to coordinate all the working group stuff so I really need both Brian and Berry.

Brian Peck: But I don't know, Alan, would that - do you think that might be - I understand your point whether it may be keeping the same day but perhaps moving it up a few hours. I wonder if that would be something feasible.

Margie Milam: Yeah, we could wake up early on...

Thomas Rickert: I'm back on the call.

Brian Peck: Oh good, great. Thomas, thank you. We were just discussing - I mean, Alan made a point that it might, you know, obviously there's a large number of people on the - that have signed up for the group that are not on today's call so it might be difficult to kind of unilaterally change the day - the normally scheduled day, which are Wednesdays.

So perhaps - and we understand your concern about, you know, missing two weeks in a row. So perhaps maybe as an alternative we could keep the Wednesday, which is the 28th of November but we could schedule it earlier in the day before our policy meetings start. And I'm certainly willing to...

Thomas Rickert: Perfect.

((Crosstalk))

Brian Peck: ...do that. If you think that would be better.

Thomas Rickert: That's great. If you would accept that sacrifice and, you know, take that extra hassle that would be great.

Brian Peck: Sure, sure. We could just figure out the timing here and just - the - I guess Question B is whether we should just select a time that will work in terms of giving us at least two hours or whether we send out a Doodle poll to see what time might be convenient. But that might also - I mean, I'll leave it up to - Thomas...

((Crosstalk))

Brian Peck: ...we could set a time that would work hopefully at least for the staff and hopefully would work for a majority of people on the group or we could send out a Doodle poll and see what time, you know, suggest some times.

Jim Bikoff: This is Jim Bikoff, could you tell us what time would work for ICANN staff?

Brian Peck: Sure. Well I think Margie - it's - the meetings start at 9:30 am local time here is that correct?

Margie Milam: I can't remember but I can't imagine we'd start sooner than 9:00 so if you could do 7:00 to 9:00, for example.

((Crosstalk))

Brian Peck: Okay I'm just trying to figure out UTC time.

Jim Bikoff: So that would be 10 o'clock Eastern Standard Time.

Brian Peck: No, no that'd be 10:00 am Eastern Standard Time.

Jim Bikoff: Ten am, yes.

Brian Peck: Yes.

Berry Cobb: So it'd look like it'd be around 1400 UTC or 1500 UTC.

Brian Peck: Thomas, would that be something that's feasible? We might have lost...

Thomas Rickert: It sounds great.

Brian Peck: Oh okay.

Thomas Rickert: Yeah.

Brian Peck: Okay and we don't mind if you think that would be a reasonable time, for example, people in the European time zone.

Thomas Rickert: Yeah, it's perfect.

Brian Peck: Okay. Well why don't we do that? Why don't - we'll go ahead and have Julia send out an invite, you know, noting that it is an earlier time for this particular Wednesday and there is no call for next Wednesday the 21st.

Thomas Rickert: Brian and Berry, if I may, just make one - although, Alan, you had your hand up didn't you?

Alan Greenberg: No that's a microphone that someone gave me and never took away.

((Crosstalk))

Thomas Rickert: Okay, okay. Just one remark; I think for us to be quick with this PDP it's crucial that we reach out to all interested parties and get their input because the more input and information we get during this process the less complications there might be subsequently.

I think we all remember the discussions surrounding IOC and RCRC only which at times have been very controversial so I think it's crucial for us to try to reach out to those groups that have not been too vocal during the last year on this issue to make sure that we incorporate all their views in our work as we move on. So any help with that would be most appreciated.

Brian Peck: Okay.

Berry Cobb: Thomas, this is Berry. As part of the PDP guidelines there is a required step that we do solicit input from the various stakeholder groups and constituencies within the GNSO and at the discretion of the working group do the broader SOs and ACs.

I can shortly, later today or early tomorrow, send out a first draft out on the mailing list for that request so that the working group can respond with edits

and maybe refine other issues or points that the working group would like to request of this - input.

And we can probably get that out - sent out prior to the Thanksgiving holiday and then that'll give a couple of weeks and maybe we'll start to receive input by the beginning of December from these various groups.

Thomas Rickert: Berry, that's very helpful. And, you know, certainly this step has to be taken. But I was more thinking of using our personal contacts and trying actually to get people and sort of gently forcing them to participate.

You know, I think we've seen an awful lot of these requests to participate in various groups and projects and sometimes you just folder - file them somewhere if not even delete them and I think it's, you know, we as team members should reach out to those that we personally know and that might have an interest in contributing to this group.

So I wanted to get more to the personal level and get more - and encourage more people to participate. But certainly you're statement was most helpful. Thank you.

Brian Peck: Okay. Okay so I think, as I said, we'll have Julia send out a - the next invite for the 28th of November at the appropriate time that we've mentioned. And there will be no meeting next Wednesday the 21st.

Okay any last comments or questions?

Thomas Rickert: It's me, Thomas again. Thanks for your trust, all of you. And thanks to Berry and Brian for helping out and not forcing me to chair this meeting immediately. I'm looking forward to working with you all. Thank you.

Brian Peck: Sure. Yeah, thank you, everyone. We appreciate your time and your participation.

David Maher: Thank you.

Margie Milam: Thank you.

David Maher: Bye.

Ricardo Guilherme: Thank you. Bye-bye.

((Crosstalk))

Man: Bye.

((Crosstalk))

END