

**ICANN  
Transcription  
IGO-INGO Protections Policy Development Process (PDP) Working Group  
Wednesday 17 April 2013 at 17:00 UTC**

Note: The following is the output of transcribing from an audio recording of IGO-INGO Protections Policy Development Process (PDP) Working Group on Wednesday 17 April 2013 at 17:00 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-20130417-en.mp3>

On page: <http://gnso.icann.org/calendar/#apr>

Attendees:

Jim Bikoff – IPC/IOC  
Elizabeth Finberg - RySG  
Chuck Gomes - RySG  
Stephane Hankins - NCSG  
David Heasley - IPC/IOC  
Debra Hughes – NPOC  
Wolfgang Kleinwachter – NCSG  
Kiran Malancharuvil - IPC/IOC  
Christopher Rassi - Red Cross  
Thomas Rickert – NCA –Working group chair  
Greg Shatan - NCA  
Claudia MacMaster Tamarit – ISO  
David Roache-Turner - WIPO  
Mary Wong - NCUC  
Mason Cole - GNSO Council vice chair – RrSG

Apologies:

Osvaldo Novoa – ISPCP  
David Maher - RySG  
Ricardo Guilherme – RySG  
Alan Greenberg - ALAC  
Guilaine Fournet – (IEC)  
Avri Doria - NCSG

ICANN Staff:

Berry Cobb  
Brian Peck  
Julia Charvolen

Coordinator: We do have our lines connected. Recording lines are connected. Thank you.

Julia Charvolen: Thank you. Good morning, good afternoon, good evening. Welcome to the IGO-INGO PDP Working Group call on Wednesday, 17th of April 2013. On the call today we have Jim Bikoff, Elizabeth Finberg, Chuck Gomes, Stephane Hankins, Wolfgang Kleinwaechter, David Heasley, Kiran Malancharuvil, Christopher Rassi, Thomas Rickert, Greg Shatan, Claudia MacMaster Tamarit, David Roache-Turner and Mary Wong and so as well as Mason Cole.

We have apologies from Osvaldo Novoa, David Maher, Ricardo Guilherme, Alan Greenberg and Guilaine Fournet. And from staff we have Berry Cobb, Brian Peck and myself Julia Charvolen.

May I remind all participants to please state their names before speaking for transcription purposes? Thank you very much and over to you.

Thomas Rickert: Thank you very much. And before we move to the second agenda item, I'd like to ask whether there are any updates to statements of interest. Hearing and reading none, before we move to the next agenda item, let me just clarify.

I guess there has been some confusion to run the staffing time because due to changes to summer time, you know, the starting time also changed for - at least for some of us. And David, you have asked by email whether we could roll take in a different way than we do now, i.e., by starting earlier.

I am not sure whether this is possibly due to ICANN policy staff meetings on Wednesdays and the Registry Stakeholder Group call. I'm not sure whether ICANN staff is in the position to say something about that now but we can definitely look into that. But if I remember correctly that these were the two other activities on Wednesdays that prevented us from starting earlier than we do every other week.

Berry, Brian, do you have any more information on that or is (unintelligible) said earlier?

Brian Peck: I think - Thomas, this is Brian Peck. Given that both Europe and U.S. are on Daylight Savings Time, an hour earlier would not necessarily conflict with the weekly policy, you know, regularly scheduled policy staff call. However, I don't - not sure about any, you know, continuing conflicts with the Registry Group.

Thomas Rickert: Okay. So we'll make sure that we reach out to the registries and check with them. And should we have this additional hour that we can start earlier, I think we could use that opportunity every second week. Now the...

Chuck Gomes: Hey Thomas. This is - sorry to interrupt.

Thomas Rickert: Sure.

Chuck Gomes: I (unintelligible). Yes. The registry call will - if it's 10 o'clock, so 1 o'clock, that should not be - 10 o'clock should - on - should not - let's see. I got to get the right time though. I don't think there's any conflict see. The registry call goes from 10:00 to noon Eastern Time. So I think we're still okay.

Thomas Rickert: That's good news. So can I have ICANN staff to look into this and if possible adjust the starting time accordingly? That would be great. So we can now move to the second agenda item, which is the discussion of the GAC communique on IGO names and the ICANN Board response.

I'm not sure whether all of you are familiar with the latest developments in this area. So just to fill you in briefly, as you know, there has been GAC advise on IGO names. And the ICANN Board has responded to the GAC during the Beijing meeting saying that the -- and I'm paraphrasing here so you should

look at the original language if you want 100% certainty -- that they do see difficulties with the organization's acronyms.

And they have basically responded to the GAC asking three questions. I'm not sure whether we can bring them up in the Adobe and - so there it is. Have you been able to go through that correspondence?

Okay. So basically the GAC submission consists of three documents; a letter from the GAC Chair, then criteria for protection and a spreadsheet listing the organization's names and acronyms that shall be protected.

And in response to this the ICANN Board of Directors has asked some questions and also reverted back to the GAC and said that more work needs to be done on this because the Board does seem to have difficulties operationalizing the GAC advice.

I'm not sure whether - and I don't want to put anybody on the spot but since you have been involved quite a bit David, could I ask you maybe to briefly explain to the group the criteria that you have developed so that everybody's - is on full speed on that?

David Roache-Turner: This is David. Thomas, just to clarify that, are you referring to the criteria that the GAC previously advised the Board on to which the Board is responding in this letter?

Thomas Rickert: Well I was referring now to the criteria, which - on the basis of which you have created the IGO list that was provided to the ICANN Board. I guess that the original criteria, which were included in the GAC advice are known to the group. But I'm hesitant to believe that all participants are actually familiar with the protections as they now stand in connection with the list.

David Roache-Turner: Right. I understand. This is David. So yes, there are three criteria which the GAC had advised the ICANN Board would provide the basis for the

population of a list of IGO names and acronyms, which the GAC has advised the Board should be the subject of preventive protection against the party registration without the relevant consent of the concerned IGO whose name or acronym is concerned.

And those criteria are building on the existing standard, which exists with respect to the INT domain space. And they are essentially they're the names and acronyms of organizations that fall into one of the three following categories should be protected.

Either that they be an international organization that's established under a treaty and which possess international legal personality or they need to be an IGO. And I see in fact that they are just being put up on the screen so you can read them there for yourself.

The second one is that the organizations that have - that are included on the United Nations list of observers and/or that they be distinct organ or program of the United Nations. And the reason for those are two additional categories. That there are some IGOs which are not created directly by treaty but which are created to perform a function, which is an IGO function and they are organs or programs I suppose of IGOs.

And the decision was taken to limit the protection for those organizations, the funds and programs within the UN System in particular. And that has had the effect of limiting the length of the list - the resulting list, which is approximately 200 organizations. And you can see their names and acronyms set out in the list, which accompanies that advice.

There has, as you mentioned Thomas, now been a response from the Board in response to that advice, which was the subject of some further discussion between the GAC and the Board at the meeting in Beijing and in which the Board posed some additional questions to the GAC that needed to be resolved.

And that was the subject of some discussion. I think it was in the Tuesday session in the Beijing meeting between the GAC and the Board. And there were essentially three issues flagged in that remained to be resolved.

The first being the issue of clarifying the process by which there would be any periodic review of this list from time to time in the event that there would be changes in relevant IGO names and acronyms.

The second being to clarify the issue of the languages in which the relevant names and acronyms should be protected and there was some discussion around that, which we can get into momentarily if it's useful.

And the third key point I think was to ask some further questions of the GAC about how provisions for coexistence between the rights that would be held here by IGOs in their names and in their acronyms in particular would be envisage to coexist with rights that might be held by other organizations whose names may correspond to an IGO acronym in particular.

And there are some examples that the Board drew to the GAC's attention for purposes of further consideration of that question including the question of how the acronym for the International Sugar Organization, which is an IGO for example would be reconciled with legitimate use of that term by the International Standards Organization, for example, ISO.

And there were some other examples as well that were mentioned. So there's been some discussion since then in particular about how that question should be resolved.

There's also been just for information as well - everybody actually would be aware of the GAC communique that came out of the Beijing meeting, which has now been publicly posted and was the subject of some pretty extensive discussion in the open forum at the end of the Beijing meeting.

And in that advice - sorry, in that GAC communique there's been some further advice from the GAC to the Board in which the GAC has - and I'm not sure if that's something that we could put up on the screen. Maybe it would be helpful for everybody to see that here as well Berry if you've got it.

But the upshot of that advice from the GAC to the Board was to I supposed to reaffirm the performance by IGOs as an important global public mission with public funds. Their particular status is creations of governments under international law and that to indicate that their names and acronyms in the GAC's view weren't special protection in an expanded DNS.

The GAC I think in that communique also was mindful of the outstanding implementation issues that the Board flagged in its letter. And I think it commits itself in response to a direct question from Board member (Kristy Stein) to actively working, you know, to find a workable and timely way forward.

And its advise - I think it's concluding advice there was to reiterate its previous advice from Toronto to the Board that pending resolution of these important implementation issues that there be appropriate preventative initial protections so the IGO names and acronyms on the provide at least to be put in place at least before any new gTLDs would launch.

So I think that's pretty much where we're at now in terms of the latest developments. And if there is a copy of that advise - that communique, sorry, that's available as mentioned, maybe it could be put up on the screen.

But I think we - I think that it obviously is incumbent - I mean it's always been incumbent but it's particularly incumbent now I think when asked within this working group to be, you know, to be doing some more careful thinking about in particular how the issue of coexistence could and should be managed and have a mechanism to - and a means to an overlap to occur in a way that

meets the needs of all participants can be developed and particularly including the organizations.

I think that the Board mentioned in the examples that it's been providing to the GAC. So I look forward to those continuing discussions in this group here this afternoon and going forward.

Thomas Rickert: David, that's actually much more than I asked for. Thank you so much for this comprehensive (circumseized) overview of the latest developments. I think that was helpful.

I think it also shows that in the interaction between the GAC and the Board at least in two areas or I should say three areas. There seemed to be discussions surrounding the exact issues as we also have huge difficulties with.

If you will recall we have not been able to fully answer the language question. We are in discussions surrounding an exemption process and how that should be designed.

And we have also envisaged the huge issue of acronyms because actually in the area of acronyms the danger is much bigger for third party legitimate users to not be able to use certain acronyms. And the risk of conflicting rights would not be that big for identical match names of the organization. So I think that's been most helpful.

For those that have not been in Beijing and could not participate remotely, during the Beijing meetings or shortly before that we actually learned that a list of the IGO names and acronyms has been produced and provided to the ICANN Board.

This was too short notice for us to actually review as a group. And - but still I guess the important message for us is that we - that we're dealing with a list



that is not as long as I guess some in this group would have anticipated, which is why we have started a discussion during the Beijing meeting.

Whether, you know, we should sort of shortcut our discussions surrounding qualification criteria for IOC, RCRC and the IGOs. And in brackets I should add that this still leaves the work of working on the INGOs with us.

But for the first three we should use the criteria and the list as provided by the GAC and implement or at least consider the implementation of whatever protection mechanisms we might come up with. And we would not have to deal with the difficult question of how to determine objective qualification criteria at least for the first three categories of organizations.

We have discussed this quite extensively in Beijing and I'll get back to that in a moment. But I guess that's all for the time being for us. The important news is that the list is not too long. Both GAC and the Board do appreciate the fact that an exemption process is needed and a process needs to be refined.

So our work could help with this. And we've also learned that the question of acronyms is not as clear, you know. We were supported in the group's divert view on the acronyms.

And I guess - can I ask those who are not speaking to put their mics on mute including the mic in the Adobe please? And I guess we now as a group need to take advantage of this ongoing discussion between the Board and the GAC and see how our work can best fit in. So this is sort of in between agenda Items Number 2 and agenda Item Number 3.

So I'd very much like to open it up to the group and discuss how we can best proceed with this because I guess we should also look at options to more closely interact both with the GAC and the Board. But certainly we as a working group we're chartered with a limited task and I think it would not be appropriate for us to directly liaise with both the GAC and the Board.

But I'd be open to hearing from you as to what your proposals are and then we can discuss with Jonathan Robinson who is the GNSO Council Chair whether he would be supportive of, you know, establishing communication channels on the subject.

So does anybody of you want to comment on that or make suggestions? Because I think that, you know, we should not look at our piece of work in isolation but maybe offer what we've achieved so far in terms of facts that we've collected and also options that we have considered and put this at the disposal of both the Board and the GAC.

Chuck Gomes: Thomas, (unintelligible).

Thomas Rickert: Chuck, please go ahead.

Chuck Gomes: Okay. Sorry. Since I'm traveling I can't get on Adobe Connect. So thank you. And I still have connectivity as you can tell. The - it may go away any time and if it does possibly (Liz) could give information with regarding to the registries.

But we talked - in our meeting last Tuesday for the registries in Beijing. We - and talks coming up with the position that we will be communicating in writing to the group hopefully before the next meeting.

We talked about this issue and it seemed to be general support from the registries to enter into a dialog with the GAC whether it be the working group or the GNSO Council or some combination. I don't think it matters too much especially if we do decide as one of our possible recommendations to use the list provided by the GAC.

And that would give us an opportunity to, you know, go over the list and express any concerns that we have. They could express their concerns. We could provide rationale.

I don't know how the GAC would want to handle it in terms of who from the GAC would participate. That's a problem the GAC would have to work out. But we generally as registries think that that would be a good idea. And as you'll see when you see our recommendations with regard to working group recommendations that that will fit very nicely in what the registries are willing to support.

Thomas Rickert: Thanks very much Chuck. I have Claudia next.

Claudia MacMaster Tamarit: Hi Thomas. This is Claudia. I'm putting my hand up for ISO. I know that we've been mentioned as one of the organizations whose short name in this particular case corresponds with an IGO acronym that is on that list. So I have a couple things to say actually.

I think number one from our perspective the first thing is to say this list is a result of - and the problems with having an acronym like ISO that can stand for a couple different organizations quite legitimately for decades is that we have not given - we have not created criteria that are going to encompass not just IGOs but other INGOs.

I think that this - from the very beginning we've been saying it's important for the criteria to include all the international organizations that are at stake here. Well we've gone a bit of a different way. The GAC has gone in this particular way to describe only IGOs. But - and that might be a very great description for IGOs.

But in any kind of recommendation for special protections we're definitely going to need to include INGOs. INGOs that include an organization like ISO, which has over 160 member countries that represent together the largest

global multi stakeholder standards community. Those countries generate some 98% of the world's gross national income. It represents 92% of the world's population.

ISO has been established for over 65 years. We have published over 19,000 standards including standards like ISO 38166 upon which ccTLDs are reference and other ISO standards that are referenced in the applicant guidebook.

We have expert - thousands of experts in many different industries, business, governments, regulatory agency, consumer organizations, laboratories, academia in over 160 different countries. And we...

Thomas Rickert: Claudia. Claudia, excuse me.

Claudia MacMaster Tamarit: Yes.

Thomas Rickert: Claudia, I guess that the merits of ISO are on record already. Let me ask you a clarifying question. That is are you now talking about contentions between IGOs that are listed and your organization or the question of qualification criteria for INGOs? In which case I would suggest that we discuss these separately (unintelligible).

Claudia MacMaster Tamarit: Thomas, I'm talking about two things. I'm talking about - I'm talking about one, the disadvantage of having - of looking at criteria for only one set of organizations and then not the others in which case number two, there may be (unintelligible) between international organizations, among international organizations. So absolutely I'm talking about those two issues.

So not just the idea of only looking at one set of international organizations and coming up criteria for them, which I think is a problem and we can see that here.

And then two, no matter what criteria we come up with, whatever that pool of international organizations will end up being, any kind of protection that we recommend, they receive, need to have some very, very strong and very meaningful exemptions or safeguards or considerations for legitimate users.

And we stand in the funny position of being both an organization that is seeking protection and an organization, which has an acronym (unintelligible) to the short name that coincides with the acronym of another international organization. So it's both sides. I'm trying to make an emphasis on both aspects.

Thomas Rickert: Now you will recall that - what's that.

Chuck Gomes: This is Chuck again. Could I ask Claudia a question as well?

Thomas Rickert: Please do.

Claudia MacMaster Tamarit: Please do Chuck.

Chuck Gomes: Thanks. Claudia, ahs the INGOs or specific INGOs like yourself approached the GAC on this issue like the IGOs did and like the Red Cross and IOC did?

Claudia MacMaster Tamarit: From what I know Chuck, I'm not aware of at least still having contacted the GAC in a particular way up till now. There might have been the case but I'm not aware of it.

I do know that there is another INGO in this working group which is the AC the International Electrotechnical Commission, which is another standards organization which is a member of this group as well.

That doesn't mean that we might not use that channel to bring a very real (prove) example of the necessity to make some safeguards for legitimate interest.

Thomas Rickert: Thanks Claudia and thanks Chuck. Before I move to Wolfgang, I'd just like to make two points and that is number one, in terms of qualification criteria it is true that the group has tried to come up with a uniform set of qualification criteria or for groups of organizations.

But in the course of our work we found out that this is not achievable, which is why we have separated the definition of qualification criteria for the four. And I think that now that the Board has come up with qualification criteria for IGO and IGOs and has produced a list on the basis of these criteria, it is perfectly appropriate for this group to build on that.

As regards to the second point, which is the coincidence of legitimate separate users and IGOs I guess Claudia your example illustrates quite nicely that we need very robust and fair exception processes in order not to impose disadvantages of - on legitimate third party users, vis a vie IGOs that have the privilege of being on the list. Wolfgang please.

Wolfgang Kleinwaechter: Yeah. Thank you Thomas. And this is not directly related now to the discussion but just to very please comment on the GAC communique. One thing is what I discovered is that the Government Advisory Committee when it refers in the (Point D) to the IGO questions. It refers only to the Board and ICANN staff and more or less ignores the work of our working group and the GNSO Council.

I think this is - and, you know, I don't know was it just an omission but I think we should also invite the GAC permanently to participate in this discussion from the very beginning of the early engagement aspect. Because, you know, my impression is that the Board, you know, and the GAC doesn't like, you know, in principle this working group and the policy development process and wants to regulate everything directly with the Board and the staff.

But I think we have an own interest here and so we have discussed it, you know, and have to ask it some questions, which didn't please neither the Board nor the GAC.

And so far, you know, I would trust one to reflect that I seen in the GAC communique here an omissions that the GAC when it comes to the protection of intergovernmental organizations does not refer to the GNSO and probably we should take note of this and use the next opportunity to repeat our invitation to the GAC to join this discussion.

And the second very brief point is, you know, the comparison to (unintelligible) was a waste of (unintelligible) times in this group. And so the 3166 list (unintelligible) by ISO has also a reserved list. And I think this is a way we could move forward. That means if we come to a list we can work with annexes which includes exemptions or, you know, a reserved list, you know, for names, which, you know, are very close to it.

So it means we should build our report or the final recommendations on already existing practices and not try to invent something new because as I said several times in this group here neither ICANN nor the GNSO Council of the group is in a position to define exactly what an intergovernmental organizational or non-governmental organization is.

I think there are some bodies around the globe, which have better experiences in this types of classifications. And ISO is certainly one of them.  
Thank you.

Thomas Rickert: Wolfgang I have one follow up question. You were touching upon the issue of exemption processes or rather not the exemption processes but actually us coming up with a list of exemptions. How - are you actually proposing that we would prepare or take from third parties an exhaustive list of (the addition) of third party users? I think that's hardly possible.

Wolfgang Kleinwaechter: You know, life is so colorful and even if we have the perfect list there will be cases, you know, which, you know, are clear some difficulties. So a very simple one is the W-H-O, which is the acronym for World Health Organization and at same time, you know, it's an (unintelligible) word who.

So and I think for best cases probably we should have some, you know, agreement, you know, under which conditions we probably would have some exemptions, which are - that would be listed on the main list and the reserve list.

Thomas Rickert: Okay. So you would sort of suggest that we come up with a methodology or process to...

Wolfgang Kleinwaechter: I would like that, yeah, refer to a - give the whole system a certain kind of flexibility. Because always if you come with a list, you know, which has a full (stop) then you, you know, exclude probably the flexibility to handle very specific cases. But we have to be very careful that such specific cases, you know, can be defined in a very narrow way. Otherwise we have more exemptions than the exceptions from the next rule.

Thomas Rickert: Yes. Thanks Wolfgang. Before I moved to David, let me just get back to the third point that you made, which is the GAC addressing the ICANN Board and staff only to collaborate with them in terms of how to operationalize GAC advice.

This is certainly an area of concern. I'm not sure whether this - the working group is the appropriate forum to have this discussion. Some of you will know that there has been extensive debate on the GNSO Council surrounding the question of bypassing the GNSO and the Council and what can be done in order to prevent that from happening and thereby preserve the functionality of the GNSO as a policy making body in ICANN.



But your point is well taken and for the group - at least for those that have not yet received that piece of information that we or Jonathan Robinson, the GNSO Council Chair, has been asked for a short discussion on the IGOs by the GAC Chair (as a drive in) and I happened to be together with Brian in that conversation and we have in that form also encouraged early participation by GAC members in order to make sure that they know what we're doing and why we're doing things.

And in that sense I've also made a statement in the public forum in Beijing in order to hopefully raise awareness for the PDP work that we're currently conducting. David.

David Roache-Turner: Thanks Thomas. Just a factual point in response to Wolfgang's earlier observations about the particular language in the GAC communique about working with the Board and ICANN staff, which is referenced there in Paragraph D.

And I would speculate that the possible reason for that very particular form of language may have been that the Board itself when it was asking those questions of IGOs I think very particularly sort of commitment from the GAC to work indeed with the Board and with ICANN staff and I think they used that specific language and it may be that that language simply made its way into the GAC's communique in response to that question as put by the Board.

I don't know that but it may very well be so. Just an observation more generally also about the possibility of engaging in some work on the assembly of a list of the potentially legitimate users which exemptions could be granted in advance. I think that would be a very difficult proposition and a very ambitious one in practice.

And I also agree that I think if we would go down that route we would risk potentially excluding some potentially legitimate users. So I think that as we go forward, and I should say I think there is recognition within the IGO

community more generally that the issue of how the consent process would work so as to reassure competing claims is an important one and an issue on which important work still has yet to be done.

And I don't have all the answers yet about how that process would operate. But certainly I think the sentiment expressed earlier about building on existing practice where that has proved successful is useful.

There are of course as a matter of practice already mechanisms which exist in the trademark world in which, you know, for example if a trademark owner would wish to make use of an acronym that corresponds to an IGO name or acronym, you know, they can already communicate with the IGO for that purpose for the purpose of informing any subsequent trademark registration.

So - and that's a mechanism, you know, where the request is looked at and that the consent I think is not something that would typically be unreasonably withheld. But certainly I think there's recognition that there is a need to some form of consent mechanism, which operates on the basis of some form of objective criteria that can give some real world comfort to other potentially legitimate users.

You know, obviously the longstanding use, you know, of a, you know, of an identifier which corresponds exactly to a protected IGO acronym could be one highly relevant consideration in thinking about the objective criteria that an IGO itself would have to apply in determining whether or not consent would be given.

And in the event that consent not be reasonably forthcoming or reasonably forthcoming within a reasonable period would then give any third party user a basis for some subsequent challenge for that possibly by reference to a mechanism, you know, in which there'd be any partial assessment under those objective criteria.

Obviously I don't have all the answers on what they would be at this point but I think that's certainly a fruitful direction for our discussion in this GNSO process to take. And one I look forward to hopefully continuing to participate in.

Wolfgang Kleinwaechter: Can I (unintelligible).

David Roache-Turner: I'm sorry Thomas.

Thomas Rickert: Yes. David I guess that we will get back to your proposals for the exemption process hopefully even during this call. But Wolfgang you wanted to respond to that.

Wolfgang Kleinwaechter: Yes. While I fully agree with the majority of the points have raised but in my specific point we should be - we should read the GAC communique very careful because the idea, you know, to handle the acronyms and names of IGOs like trademarks, you know, face a lot of opposition in the GAC. And it's over in the GAC communique where it said that the GAC thinks that IGOs are in objectively different categories to other right holders.

So I think the clear language as a right holder or trademark right holders here. So that means while I would agree that the mechanism which we have introduced for trademarks could be used for also for IGO to a high degree but we should not, you know, mix this too much in particular should not mix it as it comes to existing mechanisms like the trademark clearinghouse or something like that.

So I had discussions with some GAC members and my impression was that, you know, they have a very clear understanding to separate the mechanisms for the protection of trademarks and the protection of IGOs. So with all respect to the similarity in the procedures but this should be handled differently.

David Roache-Turner: Wolfgang, this is David. I fully agree with those comments. I think they're exactly on point. And I think we do need to be very, very careful and very, very clear that when we are drawing on the mechanisms that currently exist for the protection of trademarks that we be very, very clear that they are substantive basis for the protection of a trademark holder and an IGO in particular are different.

They are different categories and they're different categories of rights and they have different legal foundations. And I think we need to continue to be very mindful of that while also working together towards a solution that works functionally for all participants hopefully in this process.

Thomas Rickert: Thanks David and Wolfgang. Now you really dived into the heart of the matter. Before we get back to that, let me just recap on agenda Items Number 2 and Number 3. Under (unintelligible) the group would favorably looking at us seeking for options to work with both the Board and the GAC to help inform their discussions and also maybe come up with suggestions.

Certainly, you know, no group you will be presented prior to us actually having a group view should we ever get one given the diversity of this group. But I take the signal as encouragement to reach out to Jonathan Robinson and seek opportunities to reach out to both the Board and the GAC and then as Wolfgang said, encourage early engagement by the GAC to better understand and be part of the discussions that we have here.

Now regarding agenda Item Number 4, which is the discussion of opportunities for compromise. I guess we need to step back for a second and, you know, we've been discussing the IGOs quite a bit now. But let's try to put this into perspective.

We are dealing with potential protections of four types of organizations being the IOC, the RCRC, the IGOs and the INGOs. We do have GAC advice for

the first three of them. And the GAC advice IGOs we've just discussed. But we have not yet discussed the latest GAC advice on the IOC and the RCRC.

As you well know, temporary protections are in place for the IOC and the RCRC and the GAC has now advised the Board to perpetuate these provisional protections.

So, you know, for the three out of four categories of organizations we actually do have concrete lists of strings that could form the basis for protection mechanisms without forcing us to come up with methodology or objective criteria to define what strings should go on list or what organizations should be entitled to be a part program or which not because the temporary protections for IOC and RCRC do actually include exhaustive lists of strings.

So the benefit of taking this approach and I know that I'm repeating myself but I take the risk gladly because it might facilitate our work to a certain extent. The benefits that would be that we can actually shortcut our discussion of qualification criteria and just revert to the existing list for IOC and RCRC as already included in the applicant guidebook. And we could revert to the list on an as is basis provided by the GAC to the ICANN Board.

Now that is for the names, for the acronyms that we may need to discuss more. And the proposal that I have put on the table because as you will recall we have diverging views on almost every issue that we're discussing.

So my attempt to come up with a compromise solution was to actually use the list, not further discuss the qualification criteria for these three organizations leaving us with the task of defining qualification criteria for INGOs. But actually we would need to see proposals on that from the group, which have Wolfgang and, you know, despite encouragement we have not seen proposals on that.

And we could then discuss those protections for the organization names as well as the acronyms at the top of the second level. Claudia, I'll get back to you in a moment.

But for the top level one might say that there might not be the need of an extension process so we could, you know, just have these names reserved and those who want to make their own application and I guess it's up to the IGOs and INGOs in particular to let us know whether any of their peers do plan to apply for their exact match names in the second round.

But in the absence of such plan, the easiest solution for the top level for exact match names might be to just reserve them. In the rare case I guess rare case of an organization being willing to apply for their name we put them - ask them to go through and pass that process or to actually talk to the GAC and the Board and ask for an extension.

Now that is for the top level. And you can think about that for a second and I'm going to ask you for your feedback. But before I do so I will - I would like to give Claudia the floor.

Claudia MacMaster Tamarit: Hi Thomas. As you might expect, I must vigorously object to the idea of dropping the development of qualification criteria for INGOs even if it is a little bit more difficult. INGOs like ISO are not just trademark owners. You know, where we used the word public a little while ago, over 75% of our members are governmental institutions.

That means that they funnel public funds to their membership fees to ISO directly to do work for the global community. We're a very special type of INGO and it is I agree difficult sometimes to define INGOs like ours. There aren't too many around.

But that doesn't mean we can - you can drop this incredibly important work when we're talking about the reasons. Ones for protection should be in place in the first place.

And so even if Thomas it is difficult work, it is difficult work that we cannot ignore. And if it does mean again raising my hand and saying well let's look at a general consultative (unintelligible) list (ecosoft), if it does mean let's go back to some of the criteria that we had originally proposed, things like having, you know, 2/3 of your members be governmental institutions and public institutions, whatever, we need to do it.

But because we can't just simply drop this incredibly important issue. We're going to see it. And we are in the funny position again of having this particular acronym but those are not going to go away in terms of asking for objective and non-discriminatory criteria. And that means for all international organizations. Thank you.

Thomas Rickert: Thanks Claudia. Just one point of clarification. I have not suggested that we should drop the task of defining qualification criteria for INGOs. In fact if you look at the transcript in a couple days you will see that using preexisting lists for IGOs and using the existing protections for the IOC and the RCRC I said would save us the burden of working on qualification criteria for the three leaving us with the work on qualification criteria for INGOs.

And so please do note that I have not abandoned the task. I've, you know, in the light of our work now being split to talk about protections for all four categories separately. Using a list might make our task easier for three out of four.

You will also remember that the group had huge difficulties agreeing on objective or less objective qualification criteria, which is why we have shelved that project for the time being. But you will also remember that the definition of qualification criteria that could be agreed upon by the majority of the group

or, you know, could be perceived close to consensus have not been produced.

And I've encouraged the group several times not only for the INGOs but also for the other three organization sides to come up with further proposals that have not yet been discussed, which could bring us closer to a consensus positions.

So I repeat my encouragement to come up with suggestions and should the group have something that we can include in a consensus call and then get consensus the, you know, this wish will certainly be discussed and not in any way be suppressed.

Now can I hear your views on the idea of using the designations as encouraging existing and the protections for IOC, RCRC and the list for IGOs for the top level? You will remember that we have to separately discuss the top level versus the second level and we have to discuss the exact match names and the acronyms.

And in my proposal, you know, not because it's my favorite option but because I think that it might be something that at least from what I've heard many people could like, we could come up with a recommendation whereby the exact match names of the first three of the organizations are actually put on a reserve names list leaving the risk with these organizations that they cannot easily apply for their own TLD.

But that might be a risk that we are willing to take because of the low practical relevance and because it's relatively easy to implement. David.

David Roache-Turner: Thank you Thomas. The suggestion that I would have on that point, and I think it's a useful way forward subject to one caveat is that we consider proceeding on that basis noting that the preclusion would be as against third party registrations and that it would be possible with the agreement of the



relevant IGO for an application by that IGO concerning its name to be considered.

And the precedent that I would cite for that approach is the mechanism that currently exists in the registry agreement in respect of country and territory names. And that's a preclusion against registration of country and territory names other than with the agreement of the relevant government. It also provides a mechanism for the review - for a review by the GAC or the ICANN Board in the event that a specific request would be made.

But I think it would not need to be necessary in order to put the names on the reserve list that we not include some provision for the agreement of the relevant IGO, you know, to the registration at the top level of its name or acronym in the event that it could occur.

There have been some IGO's, certainly not (WYPO). But there have been some IGO's that have applied for their acronym at the top level in the current round, including (SERN), and it's quite possible that there might be applications at some future time. So I don't think we need to bind that option unnecessarily here.

Thomas Rickert: Understood, (David). So the existing applications, as you rightly said, were for acronyms. You know, my proposal, the part that I wanted to get some feedback on was exact match names.

So do you as a representative of the IGO coalition see a realistic case for an IGO actually applying for its full name as a TLD.

David Roache-Turner: I can speak for (WIPO) and say that we don't have any plans to do that. I would be very surprised if there would be present plans within the IGO coalition, and I'm not aware of any. But it's possible that there may could be. And I don't see why it would be problematic to put an entry into the reserved list subject to that very limited exception that the IGO itself agreeing to any

such application, you know, subject to the usual ICANN approval processes in due course for present purposes.

So unless there's some reason why we couldn't include that sort of a carve out, I don't see any reason why we wouldn't do it here.

Thomas Rickert: Well, it's certainly not my intention to push for my original proposal, so let me put this out to the group. Would you be supportive of a proposal whereby for the top level for exact match, name of - for exact matches to the organization's names, we would recommend that these can't be applied for as TLD's except for by the organization in question?

Can you please indicate if you don't like it? Otherwise, maybe we - that can be a recommendation that we can add to the list of potential recommendations in the initial report?

(David), is that a new hand or an old hand still up?

David Roache-Turner: That's an old hand. Sorry.

Thomas Rickert: Not to worry.

Okay. Hearing no opposition, I - Claudia?

Claudia MacMaster Tamarit: Not to oppose, Thomas. Actually to agree. I think just for what it's worth, I would agree that the full name of the organizations that are in question, including also the to be defined INGO's on the (ecosoft) list. That that would be a wonderful recommendation to at least have something to have consensus on. We should each have a reserved name list for the full name, issues of language aside.

Thomas Rickert: Thanks, Claudia.

Now let's move to the second level for exact match names. You will see that I've carved the acronyms for the top level, so I hope that we can build some common ground for the exact match names and leave the difficult task of acronyms for later.

So for exact match names of the organization, I am not sure whether there is any case where an organization's exact match name needs to be - have open to other third party users.

So one could consider a block, as some of you would call it, for the exact match names of the organizations. And we could say that you know as we did for the top level, that this recommendation would include an assumption process for the organizations themselves. And you know, one could because the second level is always more difficult than the top level. One could even say that in the exact match, names must be open for use by legitimate third parties.

And the only case that - what I think that could become really relevant, you know judging from the past discussions would be in the area of the IOC. With the Olympic term in particular, where I think Olympic.(Eiy) might be a term that would be on the list, but yet need to be held open for third party legitimate use potentially.

Can I get some views on that?

Does anybody on this call oppose to that proposal?

Okay. Now that still leaves us with the difficult task of defining what such exception procedure needs to look like, and we will need to talk about that more. But I'd like to give the group the opportunity to comment on acronyms.

The proposal that I have put up for discussion during the Beijing meeting was that given the divergence of use in our group, and given the uncertainty or the

discussions both of the GAC and the Board level, a compromise could be to allow the organization's acronyms to be included in the TMCH.

Now getting back to discussions that we had earlier during this call, this is certainly not to say that organization's name or acronyms would be equal to trademarks. We are - I guess everybody is very mindful of the fact that the status of these designations is completely different.

This group was just looking at existing mechanisms that could be used to facilitate the protection of certain designations and the idea of using the TMCH as a central repository in which strings could be entered and given some special treatment for additional services to be built on that central repository (unintelligible).

Because technically, I guess it's only wise for this group to bear in mind how policy recommendations could be operationalized. And I think in that sense, or efforts should be seen as the aim to use existing infrastructure. But, certainly not to say that IGO's names or actions actually do have the same status as trademarks would.

Now having said that, the idea of adding the acronyms to the trademark clearinghouse would provide benefits to the organizations, because the organizations would be entitled to apply for domain names that they do want to use. Let's say WHO.health could be registered during the sunrise phase.

Now if there's no competing applications, the organizations in question would be able to obtain domain registrations with priority over other users that could start registering during general availability. In case of contentions of multiple applicants during sunrise, the IGO or - you know, the benefitting organization and the other applicant would need to be looked at, and contention sets would be resolved on the basis of the dispute resolution procedures for sunrise that have been established by the respective registry.

Now should an organization not apply for a registration during sunrise, then the organization would only benefit from the trademark claims service and the domain name - the acronym would be up for registration by wherever (unintelligible) party could (be).

Now given the fact that the organizations have sometimes claimed that the acronyms would be important for them to have, you know these - you know, the idea of the proposal to use the existing (unintelligible) open it up to the organizations in question. And maybe combined with opening up UDRP and URS, would actually give them benefits to protect their acronyms. And at the same time, also allow for legitimate third party applicants.

Claudia?

Claudia MacMaster Tamarit: Thomas, I would just like to lend my support to this proposal - to your proposal here. I think that that would be a very good way forward to allow international organizations, IGO's and INGO's to be able to register their short name, their acronym, their name, their designation in the TMCH and then be able to take advantage of you know some sort of a special sunrise period to register their name.

And I think that there is - and if not, use the claim services as - not to re-describe what you've just said, but I think it has a couple of really attractive points. I think one, it takes care of a (short) need. You know one thing that we've been talking about is, "Okay. Well, there's a bunch of organizations that might not even know that they're being talked about." That they might not even want to have their as a second level or top level.

So the fact that you would need to do something to get - to take advantage of this I think is brilliant.

I think it also takes care of a big issue, which is the idea of the co-existence or the (unintelligible) of a legitimate interest. Because of course if 100-year

old trademark owner or an IGO, or whatever it is has rights, (unintelligible) that they might be in a different right. Not trademark versus (unintelligible) or whatever it is.

It'll allow them to have a separate procedure and go forth with their issues and allow other IGO's or other INGO's to go ahead and register and protect their names without having to be delayed if you will by the issues of coexistence (unintelligible) interest.

So I think that this proposal that you've made is really attractive. And I think that - I hope that it will be somewhere where we can have consensus if - particularly with all of the issues of reserved names list. This kind of a special protection would be really I think meaningful and answer some of the qualms that at least (unintelligible).

Thomas Rickert: Thanks, Claudia.

I should clarify though that the entrance hurdle to be allowed to participate in the TMCH would for the you know first three categories be the inclusion on the list provided by the GAC and for your organization.

Unless the group advises differently, I think we would still need to have some sort of qualification criteria. Because otherwise, we would leave out this entrance hurdle, so to speak, for the INGO's

Claudia MacMaster Tamarit: (Unintelligible) Thomas, just to reply really quickly. Actually, two things. I agree, though we actually have trademark registrations for ISO in over 150 countries. So we could take advantage of the trademark clearinghouse on the basis of our trademark registrations worldwide alone, even if we didn't - although we do need to have qualifying (criteria) of our NGO's. Just to throw that out there as well.

Thomas Rickert: No, that's very helpful. Actually, I guess that - you know as we move along, it's good to know that the INGO's, in particular ISO, would be in favor of using this protection mechanism.

I have (David) and then I guess it was you, Chuck, asking to be put in the queue?

Chuck Gomes: Yes, please.

Thomas Rickert: Okay. So (David) goes first, and then Chuck.

David Roache-Turner: Thank you, Thomas.

The proposal that you made about the possible uses of the trademark clearinghouse as one possible way forward on the issue of IGO acronyms is an interesting one I think, and one that we should certainly continue to think about.

But I think that it's also desirable that any solution to that we would come up with here to manage the coexistence issue be as simple and as cost-neutral as possible.

And one of the things that I think may be better calibrated to meeting both of those ends may be to think about the way that we can design a simple and hopefully cost-neutral, or at least as low cost as possible means by which the issue of any IGO consents would be required to be reasonable and it would be required to be timely. And, it would be able to be assessed by any perspective user by reference to certain objective criteria.

I think this may be a mechanism that is more limited in scope and perhaps more proportionate to the problem that we're seeking to manage. And so I suppose our proposal there would be to keep thinking about how this consent

mechanism could operate. The timelines under which it could operate. The objective criteria on which it could work.

And in particular, how we could ensure that organizations that for example have a long-standing use of an existing identifier that corresponds to an IGO acronym should be able to rely on that as a basis for receiving a timely, simple, and cost-neutral consent from the relevant IGO for that purpose.

I do think that it's useful to think about the trademark clearinghouse, but I think there are a lot of questions there that would need to be thought through carefully in terms of the mechanics. How we would go about adjusting that procedure to accommodate the specific needs of IGO protection here? How that would work in a cost sense?

I think there would be questions that we'd need to think about there that may also require a consultation in due course with the trademark clearinghouse operator that may have views on this as well. There's a lot of contingencies here that may complicate that question.

So that's why I suppose I plead a little bit for a solution that's purpose-specific and fit for purpose in a way.

Thomas Rickert: Thanks, (David).

So just to give - to keep our discussion structured, let's keep this under the heading of a consent process. I guess that is the title that you gave your suggestion.

So other than using the TMCH, you would propose that we would use the consent process whereby the organization in question would consent to whatever third party attempt for registration takes place. So let's take good note of and now move to Chuck and then to Claudia.



Chuck Gomes: Thank you, Thomas and everyone.

Two things. First of all Thomas, with regard to the idea that you described of using the trademark clearinghouse, et cetera, for acronyms, the registry stakeholder group discussed in it last Tuesday and was supportive of that approach. Obviously, all these things have to be reviewed once the detail is refined, but there was good support for that idea.

Secondly, I have a question for Claudia, and I'm glad she's next in the queue. If ISO has trademarks, why do they need additional protection?

Claudia MacMaster Tamarit: Chuck? Hello?

Chuck Gomes: Yes.

Thomas Rickert: Please go ahead, Claudia.

Claudia MacMaster Tamarit: Oh, okay. Just wanted to make sure.

I think it's - the - I thank you for your question. We do have trademarks, and so we can take advantage of the UDRP and eventually the URS. And I know it in my own skin how expensive and cumbersome that that can end up being.

I hate to kind of bring us back to the beginning of the whole public funds issue, but for us it's a very real one. You know, we have a budget and we have to devote you know our budget to certain activities and that doesn't leave a lot of money, to be quite frank, to chasing you know cyber-squatting and domain name abuse.

And it becomes more and more rampant. I see it myself when I have to check you know for particular domain names that have been brought to my attention as confusing or abusive by our stakeholders, and then we have to make the sort of cost/benefit analysis that every trademark owner has.

Because the difference is that unlike a big, private corporation, I can't really relay those costs back to the people purchasing my products. We have to make those decisions, and sometimes you know the abuse, we just have to let it go and hope that something along will come like this to be able to kind of help the reputation - help us protect the reputation that we've spent so many decades building.

So we're a non-profit and we are - you know, we're largely funded by our members. It's really difficult, Chuck, to kind of even - to be quite frank, I'm almost overwhelmed when I think about the - you know, the upcoming expansion of the DNS and having to protect our name in second levels. And then possible in some sort of a top level dispute, when I think about, you know, our particular situation as a non-profit organization.

So that's why we're here, Chuck, is I think because you know we do have a reputation that we would like to protect. It's very difficult if we're not the sort of private corporation that can do that and relay the costs back, so that's why we're standing here.

We have asked for you know protections, including things like fee reductions for you know non-profit INGO's and IGO's. Things like you know claims notice if that can get us, you know, a little bit of consensus because it's a real issue for us.

Chuck Gomes: Thank you.

Claudia MacMaster Tamarit: You're welcome.

Thomas Rickert: Thanks, Claudia. Thanks Chuck.

Now I guess we should use the remainder of our time to actually discuss the issue of exemption processes versus or/and the consent process.

Now I guess what might be closest to consensus from the various options that we have on the table, might be the idea of opening up the TMCH to designations that - well, particularly the acronyms, as Chuck has just described.

I'd very much like to get some views on the idea of a consent process as outlined by (David); whereby an organization, or an applicant, or a registrant, want-to-be registrant, whatever we might call that, tries to register a domain name and needs to seek consent from the organization in question.

Now from what I have understood, our discussions ending up with in the past, there was some hesitation with respect to the notion that you need to go to an organization holding a certain designation and ask that organization for consent. You will remember that Avri has called this the - you know, opening the flood gates to licensing schemes.

We have been reassured by the organizations in question that they have never asked for money or other favors when they have been approached by legitimate third party users. For example, when it came to a trademark registration, which is maybe a comparable mechanism that the organizations want to copy for this purpose.

So with the understanding that there is no possibility of financially exploiting granting consent to a legitimate third party users, and bearing in mind that the organizations have explained - and the latest opportunity to hear that was in Beijing where (David) and his colleague, (Alexandra), have confirmed that they have proposed a consent-based approach because it might be the easiest and most cost-effective solution opposite to tasking an independent third party with determining whether a registrant is a legitimate registrant or not.

So bearing that in mind, would you be willing to subscribe to something based on consent? To put it in a nutshell, you would try to register a domain name. The domain name is actually identical to the acronym of the IGO or an IOC - sorry. IOC has not asked for acronyms. Sorry. (Unintelligible) acronym and you would then approach the organization for consent.

We would still need to discuss how that consent is granted or how silence of the organization in question is construed. But let's just talk about the general notion of approaching the organization in question for consent if this is actually a fast and cost-effective mechanism. And, one could even attach a review process to that.

I see Claudia's objecting to that, but I'm sure that others in this group also do have views on this.

Am I correct in understanding - and Claudia, I'll get back to you in a second. I saw in the chat that you wanted to speak.

Am I correct in understanding that all of you, except for Claudia, would be as happy or as unhappy with an exemption procedure that is consent-based? This is determined by an independent third party.

So while you think about that, I'll give the opportunity to Claudia to elaborate on her objection.

Claudia MacMaster Tamarit: Hi, Thomas.

I think the issue of consent on a per-registration basis is extremely problematic. Like I said, we are in the funny position of asking for protection and also having a name that corresponds to an acronym. So I've been thinking about this from a whole - all sides of the question quite frankly.

And I think that just speaking from the perspective of let's say a legitimate interest holder that would have a name that corresponds to an acronym, perhaps it will be mine on that list as well, I think that the idea of applying for consent on every single registration is incredibly impractical.

Having to ask you know a particular NGO for - or IGO -- excuse me -- for permission to register a particular top level domain - like for example, for us (.ngorg) - or (.ong), is cumbersome, even though I may fully trust in organizations like this - like (WYPO) and other IGO's to garner consent when it's reasonable.

I think it's - from a commercial perspective, you know international organizations and other legitimate (interest-holders) do have the right to use their names in other context. And, it's difficult to be fettered, in a commercial sense, to ask permission on every single level.

So what might be a solution? There might be a solution in which there could be (unintelligible) consent. Consent that if it is for or agreed to from the very beginning, or from the roll-up, and would mean that for example -- using the ISO as the example -- that any time - so if ISO was to be reserved, then it might be on a first come, first served basis.

If we had you know an agreement with the international shared organization that either one of us, whoever comes first, for example to register the second level match, might be able to get it. They might not be interested in having a (.standard) or a (.ngo) because it doesn't relate to their work.

So that might be a solution that I'm sort of offering her on the fly of a compromise on the issue of consent. But then also being very cognizant of business issues and practicalities. I don't - I can't imagine how many of these requests would be even sent or received.

As a right-holder myself, I do get quite a few requests to use our trademark and to use our name. And so I know even just from that perspective that it can take some time to approve and to do the analysis. So I think perhaps where there is a coexistence of legitimate interest. Maybe, there can be some sort of a consent that sort of just you know dials up into the system such that you know, it goes down to the regular first come, first served basis perhaps.

Thomas Rickert: Thank you, Claudia.

I'd like to hear some more views on that, because Claudia, the idea of first come, first served, would not work for a consent-based approach.

My understanding of the consent-based approach would be that there is a default setting, which is a block for registrations. And only if the organization in question consents to the registration of the certain domain name, then it could be used.

So the organization in question would not even apply for the domain name because it has the block on its site, and only if consent is unreasonable withheld. In that instance, you know, the legitimate third party user or the party claiming to be a legitimate third party user that does not grant consent could then go to court or use a - whatever fee process we might come up with.

So we would logically never run into a scenario where first come, first served could be an option.

Claudia MacMaster Tamarit: But Thomas, to clarify. When I said first come, first served, I meant between the agreeing organizations.

So for example, if the two ISO's were to agree that either one of them can register the domain name, that would be on a first come, first served basis. In other words, the IGO or any other - you know, depending on how we come

up with this agreement, any - the international organization, the IGO or the INGO can provide a sort of unconditional consent to another legitimate interest user.

Like for example, the assurance company in the US that has the term ISO as well. And then either of those groups in this particular agreement would be able to then go ahead. So that precludes the problem of each single time, you know, having to ask for several hundred you know permissions to register you know a name that you've had a right in for well over half a century.

Thomas Rickert: Okay. Thank you for that clarification.

With that said, the scenario that we would need to think about further, i.e. the clash of two legitimate beneficiaries of the program - so I was rather thinking of a conflict between third party users - legitimate users and the organizations in question themselves.

(David), please.

David Roache-Turner: Thanks, Thomas, and thanks very much Claudia as well. I think there's real understanding you know from an IGO perspective of the need to think about ways to manage these questions of coexistence in ways that are simple, that are cost effective, and reduce the burden as much as possible on potentially legitimate users such as ISO.

Because, nobody wants to be in the position that Claudia just described of having to send off potentially tens or hundreds of applications for consent to individual registrations of domains, when it may be that we need to think about ways to be even more efficient about the process.

So there might be scope for example, for building in, you know, a one-off consent in certain relevant cases. So for example, if ISO would you know approach the - or perhaps the IGO coalition could even approach the

international (unintelligible) organization to see about the possibility for an open-ended exemption or consent, which would enable ISO to have the comfort of knowing that it would have that necessary agreement in place for any subsequent registration or use that it would need to make.

And, that might be something that we could think about putting into objective criteria for other organizations as well that would meet those criteria.

Thomas Rickert: Thanks, (David). That's very helpful.

Chuck, are you still on the line?

Chuck Gomes: Yes, Thomas. I am still on the line.

Thomas Rickert: I have one question for you. You mentioned earlier that the registries have discussed last week that they would be supportive of the notion of opening up the TMCH to acronyms. Have exemptions processes been part of the registry's discussions as well?

In other words, what we're discussing right now goes a little bit beyond the use of the TMCH on an as is basis. So, do you think that this - that the idea of having an exemption process or a consent-based approach would get traction with the registries? Or, is your impression that opening up with the TMCH is as far as the registries could go?

Because, I think we all remember that the registries in particular have been very hesitant to support blocks or preventive mechanisms.

Chuck Gomes: Yes.

Well it's hard for me to say what the rest of the registries would think specifically about what you're asking. It would be easy enough to explore.



But, we didn't get that specific in terms of the use of the trademark clearinghouse for the - with regard to an exemption procedure.

The registries are supportive of an exemption procedure though.

Thomas Rickert: Okay.

But if the registries support opening up the TMCH for acronyms, is it my understanding that we would not even need an exemption procedure for that because there wouldn't be any rule for it.

The exemption procedure would be needed maybe for exact match name protection at the top and second level, but not for the TMCH. That is your - is my understanding correct?

Chuck Gomes: I think that's correct. Yes.

Thomas Rickert: And you will submit to discuss whether - or what type of exemption procedure the registries would like? What - all we know at the moment from the registries is that an exception process would be needed, right?

Chuck Gomes: Yes.

And we - I have sent the process that has been outlined so far to the registries, but haven't received any feedback on that.

Thomas Rickert: Yes. Okay, that's very helpful.

I'm just trying to understand what level of support we might have for particular design out there, the exception or content process.

I see (Mary) writing in the chat box. She needs to confirm with NCUC and NCSG. But that she thinks that the two groups will not support blocks or

(unintelligible) exceptions. It's more likely a TMCH mechanism could find some support.

(Mary), it's my understanding that you were...

Chuck Gomes: Thomas? (Unintelligible).

Thomas Rickert: Yes?

Chuck Gomes: Yes. Could I - before I put myself back on mute, could - I can tell you that I have communicated with the registries that I'm supportive of a process whereby if - and keeping the exemption process very simple.

And that is a - an organization that's not an NGO or an INGO had a trademark name in the trademark clearinghouse, then they would be allowed to have an exemption for that as long as they agreed to not in any way using the name to cause confusion with the IGO or other organization that had some protection.

Thomas Rickert: I guess that's very...

Chuck Gomes: There wouldn't be any exempt process needed because they have demonstrated in the trademark clearinghouse that they have rights to the name, even if it conflicts with an IGO or other name that is protected. Does that make sense?

Thomas Rickert: That makes sense for the initial phase.

So are you suggesting that the entries in the trademark clearinghouse and the - that basically, we make the sunrise rules permanent for this designation. I guess that's what you're saying, isn't it?

Chuck Gomes: Yes.

But there's really two things that I'm saying. One of them is that the IGO acronym could be in the trademark clearinghouse giving them the rights to sunrise if they wanted it, and URS. But - URS maybe is a little more complicated.

But I'm also suggesting that the exemption procedure would be kind of an automatic one if a non-governmental organization - excuse me. I'd better say the commercial organization or a non-commercial organization that's not on one of the protected lists wanted an exception. As long as they could prove that they have rights to the name via the trademark clearinghouse, that's all they would need, except for maybe a (unintelligible) that they wouldn't in any way use the name to cause (unintelligible).

Thomas Rickert: But Chuck, that would actually require the TMCH to be deployed on a permanent basis.

Chuck Gomes: I'm sorry. So what?

Thomas Rickert: That would actually require the TMCH to be deployed or to be used on a permanent basis. Because otherwise, you wouldn't find out after 90 days whether a certain name is in the trademark clearinghouse or not.

Chuck Gomes: I think the implication is that that would be the case anyway. Because - but that hasn't been finalized, okay. And the reason I say that is because there are some registry applicants that have said they would like to offer the right protection mechanisms indefinitely. Like for example, the claims notice.

So the only way that could happen is if the trademark clearinghouse operated indefinitely. And if I understand correctly, ICANN staff has negotiated I think a five year agreement with the providers. And the question was asked last week in Beijing whether or not - what would happen after five years? That was in the trademark clearinghouse section.

So I think there's fairly good indication that the trademark clearinghouse would operate much longer than just in that first 90 days.

Thomas Rickert: Okay. So that would be for commercial use, i.e. for those who have trademarks? I guess your point is well taken.

Next is (David). Please.

David Roache-Turner: Thanks very much. I didn't actually have my hand up. I just popped my comment into the chat box, so I won't labor it unnecessarily.

But just to note, I do agree very much that the idea of exploring the trademark clearinghouse further as a possible option is a very interesting one. But, I think there would be some aspects of the proposal that IGO's would be looking at in particular, which reflects the particular status of the rights in the acronyms that would be protected.

One would certainly go I think to the issue of duration, which has been discussed and which is currently limited under the TMC. Another is the question of cost.

And then I think it would be useful to say - to explore a bit further how that would work. Would there be a cost? Would there be no cost? At what level would the cost be applied if there would be cost? And I think that we would be looking for some form of exemption process not to exclude all potentially legitimate registrations. And indeed, to allow legitimate registrations where these would be identified. But, to preclude certain third party registrations where there would be an absence of legitimate use.

You know so for example, I couldn't imagine a problem with ISO you know, seeking to register a domain name containing its short form name. But if it would be you know John Zuccarini seeking to register that term or some

other known cyber-squatter, it might be an issue there that would need to be managed a bit more closely.

Thomas Rickert: Okay, thanks (David).

By the way, your hand was up...

David Roache-Turner: My fault.

Thomas Rickert: ...so maybe (unintelligible) hand again.

David Roache-Turner: The old hand. The (unintelligible) hand, exactly.

Thomas Rickert: So I guess we have some interesting suggestions on the table, and that would be you know enshrining the exemption process in perpetuated use of the TMCH and per se, granting exceptions to those who do have a trademark which is entered into the trademark clearinghouse, which would still leave us with an issue of non-commercial third party use.

And, I think that that is the case which is even more needed if I understand correctly, or if I remember correctly that the wording of (unintelligible) of the Paris convention which prohibits third party commercial use.

And my question to you as a group is whether you have any suggestions as to how we can build safeguards for legitimate third party non-commercial users into the system, i.e. those users that do not have trademarks.

So no idea on that for the moment, but I expect that we maybe try to further build on this proposal or this (unintelligible) of proposals to see whether we can come up with something addressing all the variations of commercial use and non-commercial use in it. I guess we were - or hope that we would with that.

Chuck Gomes: This is Chuck again.

Thomas Rickert: Chuck, please.

Chuck Gomes: Is there really a need to address it beyond those who would have some demonstrated rights? It's not clear to me that it is. Now I may be wrong, and I can accept that, but is there really a need to broaden the exception procedure beyond those that have demonstrated rights?

Thomas Rickert: Well, I guess that the issue is that if at all - if there is protection for the acronyms, then it would be protection against commercial use. And I guess that non-commercial users in most cases would not have trademarks.

Chuck Gomes: Well, I - this is Chuck again. I'm not sure I follow you because the trademark I don't see - I don't think the registries are suggesting that the trademark clearinghouse should be used for acronyms to protect the acronyms against commercial use. So I guess I would challenge that assumption.

The idea is to give them the same - some of the same protections that trademark holders have. And then it could also - the trademark clearinghouse could also be used for the exception procedure where that applies so that the acronym so that the - if a commercial organization or not-for-profit organization of some sort had the same acronym as an IGO name for example.

Then because they can demonstrate rights to the trademark, they would be allowed an exception, provided there's some commitment to not cause confusion. So I think I'm looking at it maybe a little bit differently than you are. I may be missing something.

Thomas Rickert: Well, that's something we should find out. And, I hope that we will continue our conversation on the mailing list then.

(David) asked the question whether it's realistic to get changes to the TMCH in time. It's a question that's directed at me. I'm not able to answer it, but nonetheless, I guess we need to work as quickly as we can. And you know the quicker we are, the better the chances are for us to have something ready for this first round.

Which leads us to the next agenda item, which is the status of the initial report and the review of the work plan. And not - I don't intentionally want to confuse Barry, but since we've talked about the - yes. That's great. Now you have put up the work plan. And since you've updated it, would you be kind enough to maybe guide us through it? Because, I think that would partially answer (David)'s question.

Barry Cobb: (Unintelligible), this is Barry.

So for those that are still logged into the AC room, I have the latest work plan and timeline posted up. I don't think I've sent this out to the list yet, but I'll send it out after the call.

Basically, we're kind of in a - as everybody's aware, in a compressed schedule. Certainly one of our main deliverables is to have an initial report that we can post out for public comment. And per PDP guidelines and bylaws, there are minimum public comment periods that we have to execute against in terms of releasing the initial report so that it can be reviewed by the Council, et cetera.

So one of the elements that - we're working on the next version of the initial report now. Certainly, that won't be ready to go until the working group has formulated all the recommendations, which is probably the most critical part of the report.

In the meantime on this next version, we're working through updating previous submissions by the stakeholders and to this working group, as well

as ensuring that we comprehensively cover all the previous efforts that have been performed with regard to the protection issue.

So we'll probably - we'll most likely have the next version out or to the list to review prior to next meeting. And again, of course, it won't contain the overall recommendations, a lot of which we discussed today.

I think the most important takeaway - just lost connectivity. The most important thing to recognize with respect to the timeline is that if we were to formulate the recommendations, get them published into the initial report by May 3rd, that essentially gives us until the 24th of May before the public comment period closes and that the reply period begins.

At which time the working group can come together, and we are bound by the PDP Guidelines to review through the public comment - through each one and understand if there's a material need for a change to the initial report in terms of trying to produce our final report and final recommendation.

So if we were to meet each one of these particular milestones by the date that's listed before you, we would basically be at the middle of June at minimum to deliver a final report back to the GNSO Council for their consideration and potential adoption. And then (thus), working through the ICANN Board and the GAC as well.

So I think in general, we want - we - I think the working group would want to try to complete its work prior to the Durbin meeting, which of course is in mid-July. And this schedule kind of gives us a little bit of buffer prior to that. But I believe it'd be important for the working group to try to deliver the final report by mid-June.

Thomas Rickert: Thanks so much, Barry, and that's certainly ambitious given the amount of work that we still have before us. But, I guess that we should try to make these dates.



That leads me to my request to you to actually go through the report and create a mockup or send us very concrete suggestions for changes in the report so that you can actually live with it and (seem better like it).

We will certainly - if we are on track with the schedule, we will certainly approach the GNSO Council leadership and maybe ask them to hold a special meeting so that we can get GNSO Council approval as soon as possible. And they would certainly - you know depending on how things go, do the same - (unintelligible) the Board to encourage the Board to look at our recommendations as soon as they can - as possible.

With this, I think we can almost close the meeting. It's just you know another - the last point that...

((Crosstalk))

Woman: (Unintelligible)...

Thomas Rickert: Who's that?

Okay. I thought there was somebody wanting to talk.

The next meeting is going to be on the 24th, and that is at 16:00 hours UTC for 120 minutes.

Unless any of you have more questions, I'd like to bring this meeting to a close. It's four minutes to the hour, so we're good on time.

Thanks to all of you for your participation and your good suggestions, and I hope that we can get some traction with the new proposals that we now have on the table.

Thank you so much and have a great day. Bye.

Man: Bye.

END