

**ICANN
Transcription
IGO-INGO Protections Policy Development Process (PDP) Working Group
Wednesday 24 April 2013 at 16:00 UTC**

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<http://audio.icann.org/gnso/gnso-igo-ingo-20130424-en.mp3>

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

Attendees:

Lanre Ajayi - NCA
Jim Bikoff – IPC/IOC
Avri Doria - NCSG
Elizabeth Finberg - RySG
Chuck Gomes – RySG
Alan Greenberg – ALAC
Robin Gross - NCSG
Stephane Hankins - NCSG
David Heasley - IPC/IOC
David Maher - RySG
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:

Oswaldo Novoa – ISPCP
Guilaine Fournet – (IEC)

ICANN Staff:

Berry Cobb
Brian Peck
Julia Charvolen

Coordinator: Welcome, everyone, and thank you for standing by. Need to inform all parties that today's conference call is being recorded. If you have any objections you may disconnect your line at this time. And you may begin.

Julia Charvolen: Thank you. Good morning, good afternoon, good evening. Welcome to the IGO INGO PDP working group call on Wednesday 24th of April, 2013. On the call today we have Jim Bikoff, Chuck Gomes, Alan Greenberg, Stephane Hankins, David Heasley, David Maher, Kirin Malancharuvil, Christopher Rassi, Thomas Rickert, Greg Shatan, Claudia MacMaster-Tamarit and Mason Cole.

From staff - we have no apologies so far. I'm sorry, yes, we have Guiliane Fournet and Osvaldo Novoa. And from staff we have Berry Cobb, Brian Peck and myself, Julia Charvolen.

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

Thomas Rickert: Thank you very much, Julia. My name is Thomas Rickert and I'm chair of this working group. And I'd like to ask you, as usual, whether there are any updates to statements of interest.

Hearing none and reading none in the chat we can move to the next agenda item which is the review of the Registry Stakeholder Group recommendation proposal. And I see that we have Chuck Gomes with us on the call today. And, Chuck, I know that I have not reached out to you earlier but my question to you is whether you would be willing to briefly outline and guide the group through the proposal that you submitted to the list a couple days back?

Chuck Gomes: Thanks, Thomas. This is Chuck. I don't have any problem doing that but David is our representative. If David would rather do it I'm okay with that. Is he on the call?

Thomas Rickert: So please do accept my apologies. David, it was no intention whatsoever to circumvent you. Just - this must have been sort of a Freudian slip because I saw Chuck sending the email on behalf of the Registries. But, David, you know, if you would be kind enough to do so that would be just as good.

David Maher: Thank you, Thomas. But, Chuck, why don't you go ahead?

Chuck Gomes: Okay. Thanks. I wanted to make sure David had the opportunity. David and I, just for everyone's knowledge, worked on it together and I just happened to be the one that sent it. So - and of course we were summarizing the position formed by the Registry Stakeholder Group in Beijing.

So all of you - most of you have read it because you've responded to it so I will be brief and you can ask questions if I don't do - if I don't cover something that you aren't clear on.

I'm not going to go through out assumptions but I think - I encourage everybody to read the assumptions because we really tried to come up with a position based on those assumptions which relate back to the new gTLD PDP recommendations that were approved with the super majority by the GNSO Council, later approved by the Board.

We also related back the assumptions related to things that have happened in this working group and the drafting team prior to this. So I'll let you read those on your own.

Our recommendations are pretty straightforward and we think they're readily implementable. Recommendation A is that as a basis for possible protection of full names use the GAC lists for IOC and Red Cross, use the GAC list for full IGO names and for both of these it's the top and the second level.

Recommendation B is that we require IGOs to apply for protection for their full names at the top and/or second level prior to finalizing the list of qualifying

organizations that would receive protection. There's been some good discussion on the list I think on that between Avri and I and maybe some others.

Recommendation C is as a basis for possible protection of acronyms for the Olympic names, the Red Cross names and the IGO names, modify new gTLD rights protection mechanisms. That's trademark clearinghouse, URS and UDRP as applicable to include acronyms of the protected names from our first recommendation there.

And so that they could be included in both sunrise and claims processes. I'll insert an editorial; I just read Mason's post from the Registrars and they I think suggest an alteration of that. We're certainly open to discuss that further and Avri also had some concerns there that I think are worthy of discussion.

The Recommendation D provide an exception process whereby an organization not covered by any protections but having legitimate rights could apply for a protected name.

E, allow protected organizations to apply for their names at the top level or second level. And last of all modify the trademark clearinghouse to include protected organization full names.

I won't go into the rationale but we do provide a rationale for each of those. And I'll leave it at that. If anybody has any questions or if David wants to add any clarity I'd be more than happy to respond and I'm sure he would too.

Woman: (Unintelligible).

Jim Bikoff: Chuck?

Chuck Gomes: Yes.

Jim Bikoff: Jim Bikoff.

Chuck Gomes: Jim.

Jim Bikoff: Just one clarification. On the recommendation regarding acronyms, we're not asking for protection on acronyms so - because you had mentioned IOC and Red Cross on that. IOC is not asking for any acronym protection.

Chuck Gomes: Thank you. And I appreciate you clarifying that on the list earlier too, Jim.

Jim Bikoff: Great.

Thomas Rickert: Thanks, Chuck, for this overview of your recommendations. And is there anything that you would like to add, David?

David Maher: No, Chuck covered it very well. Thank you.

Thomas Rickert: Thanks, David. And I have - I see Alan raising his hand so Alan, fire away.

Alan Greenberg: Thank you. Just a question for clarity. On acronyms I think the only thing you're suggesting is in C that they be included in the clearinghouse which would require, you know, which would give them sunrise privileges and require a claims notice if someone is to - is to attempt to register it for the period that claims notices will be issued but no other protection on an ongoing basis. Is that correct?

Chuck Gomes: That is correct if I understood you correctly and I think I did so...

Alan Greenberg: Okay. So D explicitly says the protected name, not the acronym.

Chuck Gomes: Let me look at that. That's a good point.

Alan Greenberg: If there is no ongoing protection other than the trademark clearinghouse then we don't need an exception process.

Chuck Gomes: Well, okay so B, as in boy, that relates to full names.

Alan Greenberg: Right.

Chuck Gomes: Okay? C then covers our recommendation on acronyms. And that would relate to, you know, modifying the rights protection mechanisms to include acronyms of protected organizations. And obviously we could add a caveat if they desire that like Jim pointed out.

Alan Greenberg: All right so in D you did mean full name, it's - you're just using slightly different terminology.

Chuck Gomes: Yes.

Alan Greenberg: Okay.

Chuck Gomes: And you're talking D as in David?

Alan Greenberg: D as in David, correct.

Chuck Gomes: Okay. Yes.

Alan Greenberg: Everywhere else you used full name...

((Crosstalk))

Alan Greenberg:I just wanted to make sure that there wasn't sure that there wasn't some other innuendo of it.

Chuck Gomes: We probably should have said - we probably should have said full name there, Alan.

Alan Greenberg: Okay thank you.

Chuck Gomes: Okay you're welcome.

Thomas Rickert: Thanks, Chuck, for the clarification and thanks to Alan for the question. I have Brian next and then Claudia.

Brian Peck: Thank you, Thomas. This is Brian Peck from ICANN staff. Chuck or David, thank you for submitting the proposal. I did share it with internal staff here especially those involved in implementation of the new gTLD program.

And one question that came back was wanted just to clarify, you know, you have A and D in terms of protecting the IGO and IOC Red Cross Red Crescent full names. But then you also have F in saying modifying the TMCH to include the protected organizations of the full names.

And they were curious to know if indeed or just to clarify if indeed the name is already protected on, say, on the reserve name list, what would be the purpose of also having, you know, to be included in the TMCH?

Chuck Gomes: That's a fair question. David, do you want to respond to that? I'm not sure I have an immediate response.

David Maher: It's simply giving the organizations the opportunity to protect themselves in that way. They could use it for the sunrise period or any other purpose that the trademark clearinghouse might eventually get involved in.

Chuck Gomes: We could certainly - this is Chuck. We could certainly refine that to make it clearer. That shouldn't be hard to do.

Brian Peck: Okay, yeah, just - I mean, I think there was a little confusion on our part, if you will, if the names indeed are already on a reserve name list why there would be an additional need, you know, to still have some sort of protection to the trademark clearinghouse.

Chuck Gomes: Yeah, there might not be in that case. I think that's something - if there's support for that that would be a detail I think that would be fairly easy to iron out and...

Brian Peck: Okay.

Thomas Rickert: Actually, you know, if the names were added to the reserve names list then certainly the TMCH would not help the rights holders in terms of preventing third party reservations or in being notified thereof because these registrations would simply not be possible. But one benefit could be to, you know, to make use of the defensive registrations based on prior UDRP cases.

Chuck Gomes: Yes. Again the concerns are understood and I think it's something we could work together as a group to refine so that it's clear.

Brian Peck: Okay.

Thomas Rickert: Thanks very much. And, Brian, did you want to add anything?

Brian Peck: No, just wanted to thank both Chuck and David, appreciate that.

Thomas Rickert: Thanks. Claudia.

Claudia MacMaster Tamarit: Hi, Thomas. Claudia. I would like to bring some attention to an aspect in Number 8 in Rationale, which I think causes some great concern. It says that there is (unintelligible) from the General Counsel response that there is any legal basis for providing protection for INGO names.

Now the General Counsel response didn't even include looking at any other INGO names other than IOC and the Red Cross. So I think it's important to note that that is a glaring hole in their response. And that it's something that we cannot ignore and that will have to be looked at because there very well may be, and almost certainly at least in our case, some legal basis for finding special protection for names, you know, in national legislation.

That goes even beyond, although I think it should also be sufficient, to trademark protection. So I'd just like to say that Number 8 in terms of the indication or the implication that it gives that the IOC and the Red Cross are the only INGOs that may qualify for protection because they're in a unique status. That hasn't been something that was really treated in the General Counsel response and I think it's something that we very, very much need to be aware of and note.

Thomas Rickert: Thanks very much, Claudia. I would like to revert back to Brian because you will recall that we had discussions with General Counsel and we have made that point and we asked for an addition to the General Counsel advice to explicitly state that there were no findings on the INGOs or at least that they haven't worked on that.

So it is very well possible that these rationales already had an updated version of the General Counsel response in mind. Brian, do you know whether there is an updated version of the answer out already?

Brian Peck: I don't believe it's been published. We actually have a meeting with Legal today - in a couple ours after this meeting so I'll raise that with them to - I know there's that and there's also the updating of the statute of Mexico that needs to be included in, you know, the most recent version. So I'll take care of that when we meet today.

Thomas Rickert: Thanks very much, Brian. And I'm sure that Chuck will also be in a position to briefly respond to that point because he is next in the queue. Chuck.

Chuck Gomes: Thanks. This is Chuck. And, Claudia, thanks for the comments. I'm assuming that you - the hole you're talking about is you're not talking about a hole in our rationale in Number 8 but rather a hole in the General Counsel's response. Is that correct?

Claudia MacMaster Tamarit: Hello?

Chuck Gomes: Yeah, I hear you now, Claudia.

Claudia MacMaster Tamarit: Oh good. I think that, yes, there is a hole in the General Counsel's response. And I'm afraid that might - the way that Number 8 is phrased it might give the implication that the General Counsel said that they had found no legal basis for protecting other INGO names which I think would be both a mischaracterization and, in any case, the General Counsel didn't - well at least when they had explained it originally, hadn't looked at - which is a striking problem - hadn't looked at other INGOs.

Chuck Gomes: Thanks. This is Chuck again. Number 8 was worded pretty carefully. Notice it says no evidence in the General Counsel response which is what we relied on because the GNSO needs to rely on the General Counsel's office to give us details with regard to legal issues.

And so this is not to say that there isn't other legal evidence. Certainly in their response there was not basis for providing protections for INGO names except for the two. And that's all we're saying there because that's what we used to come up with our conclusion.

That does not mean that in the future there could be evidence provided and even because the GAC is responsible for public policy advice; there could be future efforts by the GAC to - based on what legal evidence there might be for certain other INGO names they could make other recommendations.

But as of this point, because we relied on those two things, as well as the discussions in our group about protections, that was the basis for that - for our rationale there.

Thomas Rickert: Thanks, Chuck. I have Greg next and then David.

Greg Shatan: Thank you, Thomas. It's Greg. I think, you know, I'm also quite troubled by this with regard to the INGOs. I think that Rationale Number 8, as stated, is actually rather misleading because there's also no evidence in the General Counsel's response that there is no legal basis. The question simply wasn't reached.

And I think, you know, reading it without the supporting documentation you get the sense that they found, you know, no evidence - like saying there's no evidence a crime was committed when you're not looking for that crime you're not going to find evidence for it.

So I think it's just a - the whole thing is a non-starter. I think it, you know, by implication, reads way too much into the General Counsel's response since they didn't reach the question. And the question they were trying to reach, you know, was limited to ICANN and registry/registrar liability and not to, you know, to applicant liability.

And they're reading of the cases of the statutes rather was kind of narrowly geared for looking for explicit language in statutes which is kind of a black swan event in drafting - or at least a gray swan event because, you know, most statutes are either older or are kind of package-neutral, if you will, as to how, you know, where a - where you find a protection issue arising if it's in a domain name or elsewhere.

So I think that there's really - there's no basis, you know, not to give INGOs protection based on the General Counsel's response so I think there's really,

you know, no - at best you could say there's no rationale either way for excepting or rejecting.

And I think also the optics of giving the, you know, IOC and the Red Cross kind of sui generis protection, and they're both fine organizations of course, are atrocious because then it looks like this is just a squeaky wheel gets the grease type of process and not a process where we're kind of looking for the greater - looking out for kind of greater issues.

You know, be kind of a stunning coincidence that the two organizations that lined up early and often got what they wanted and that every other INGO was left, you know, empty-handed. I don't think that's the way we should be proceeding. So I think we need to give, you know, very careful consideration to the INGO issue and if there are questions that we need to ask of General Counsel or otherwise we need to make sure we're asking the right questions and not relying on the lack of an answer to a question we haven't asked.
Thank you.

Thomas Rickert: Thanks, Greg. And your point, as well as Claudia's point, are well taken. They will be on the recording as well as on the transcript so should the Registries' proposal be a basis for a joint position we will surely be able to get back to that and find language that can be supported by a number as big as possible in this working group.

But for the time being I would very much like to ask the group not to further discuss the scope and the response from General Counsel because we have discussed that extensively during earlier calls. So if I may I would like to ask you to focus on the actual recommendations to see whether and to what extent we have common ground there or what needs to be altered in your view so that you could support them.

And before I move to Chuck, who is - oh no to David, who is next in the queue, I would like to make one final point and that is in response to your

concern, Greg, that only the IOC and the RCRC are being awarded protections because they came earlier and have lobbied earlier than others did.

Please bear in mind that what we're discussing now is actually a solution for the first or potential solution for the first three categories of organizations being IOC/RCRC and the IGOs. But I've made very clear during earlier calls as well that we still have work to be done on the INGOs, it's just that no proposal has been made from the group that would find broad support in terms of protections.

So if you have proposals that we can discuss for the protection of IGOs, meaning objective or criteria as objective as possible that could be used to determine who would be eligible for such protections please voice them and we will get to that point anyway because our task, according to the charter, is dealing with recommendations for all four types of organizations and not only for the three that we're now focusing on in our discussion.

David, please.

David Maher: I just - I just wanted to say that I don't agree with anything that Greg said. And I think that what he's trying to do is expand this PDP beyond its original scope. So - so far as I'm concerned - and I think so far as the Registries are concerned - we stand by the statement in other assumption Number 8.

Thomas Rickert: Thanks for the clarification, David. Claudia. Claudia, we can't hear you.

Claudia MacMaster Tamarit: Sorry, Thomas, I actually didn't realize I had raised my hand. But in case I was typing something in the chat. Thomas, did I hear you correctly? Did you just say that there is broad support in this working group for protecting the IOC and Red Cross and IGO names?

Thomas Rickert: The...

Claudia MacMaster Tamarit: If that's - I don't - I don't know if I can agree with that, quite frankly.

Thomas Rickert: Well I haven't spoken of consensus or even rough consensus. But we have started discussing a proposal which is similar to the one that we now have on the screen presented by the Registries in Beijing. And I think, you know, by observation as chair, is that I haven't seen as much traction for other proposals as for these.

Which certainly does not - does not in any way mean that the result of a consensus call would be favorable. But from what I've seen on the mailing list from the Registries that were not willing to offer protections in the past which have now come up with these recommendations.

The Registrars have supported them and various other members of the working group have responded favorably of these. So I think this is actually a set of recommendations that has found broader support than any other proposals that we had on the table so far.

But we will certainly need to analyze that more carefully as we move along. And that is the reason for our call to discuss this and see what level of support we actually have. Now unless there are more comments...

Stephane Hankins: Thomas, Stephane Hankins. I can't say...

Thomas Rickert: Stephane.

Stephane Hankins: I can't put up my hand so I'd like to put myself in the queue and say a word now.

((Crosstalk))

Thomas Rickert: It's your turn. Go ahead.

Stephane Hankins: ...various others. Okay Stephane Hankins, Red Cross Red Crescent. I have two brief comments on the proposal. The first is the list of IGOs which is referred to in the Point A of the proposal, which refers to the GAC list, the four IGO names, and I was - I was wondering, you know, whether - whether this should be the full reference.

The reason I mention this is that elsewhere in ICANN documents, notably in the Applicant Guidebook for the organizations entitled to legal rights objection, there is a definition of IGOs. And it is a definition which is slightly broader than that seems to have determined the list provided to the GAC.

Because it includes also the specialized - it includes not only organizations that are by international treaty including the specialized agencies of the UN but also the other organizations having a service status at the UN General Assembly.

So I was a little bit unclear, you know, whether, you know, why, you know, different criteria would be taken. And the reason I mention this is that as regards the names of the international organizations within the international Red Cross Red Crescent movement, the RCRC, and the international federation, these organizations have observer status in the General Assembly of the UN.

So, you know, if we - if they were added here, you know, that would - that would already, you know, cover at least the names of these two bodies within the Red Cross Red Crescent movement.

And the second question that I would have is regarding the Point D, "Provide an exception process," because here indeed I, you know, I believe that, you know, further work and of course it's work that - it's grounded as already been discussed in detail by this working group, but there would be a need of

course then, you know, to provide criteria for that exception process I assume.

So I don't know whether (unintelligible) his colleagues have given, you know, some thought and have, you know, a proposal on that. Thank you very much.

Thomas Rickert: Thanks, Stephane. Chuck, you're next in the queue. Maybe you would like to respond to these points?

Chuck Gomes: That's why I'm in the queue. Thanks, Thomas. This is Chuck. Actually the first point of my response I think covers both questions that Stephane asked. And thanks for the questions, Stephane.

Notice we very intentionally recommend that the lists provided by the GAC be the basis for any protections that are provided. So rather than some general criteria - because as soon as you have the general criteria we begin to get more subjective and then we've got to have a body that makes a decision as to whether or not that general criteria is met, etcetera, etcetera. It's a much - it's a more complicated process.

So if we have a list of names that is provided by the advisory committee within ICANN that deals with public policy issues, then that's what we - what we support rather than a general statement of criteria from which that list was made.

Now - so with regard to D if an organization would like to register their name, if they're on one of the lists they're eligible to do so, period. There doesn't need to be any criteria associated with that except for they're on the list - one of the lists.

So hopefully that answers that. And it makes for a very implementable proposition for Registries and Registrars as well. There's no time delay. We've got a list. Now if there's an organization that believes they should be

on the list they can go to the GAC just like others that are involved in public policy issues just like the IGOs and the Red Cross and IOC did, and make their case.

And the GAC could decide either way to add to the list or not. But that's the way we see it as a way that that would be controlled by the body that - the advisory body that gives the public policy advice. Hopefully that answers Stephane's questions.

Thomas Rickert: Thanks, Chuck. I have Greg next.

Greg Shatan: I agree that there should be a process for adding to that list. I don't think that lobbying the GAC should be that process; I think that we should put in place a process. I don't think it's the GAC's job to be that filter.

I'd like to talk about what that process is. I don't have a, you know, particular idea of what it would be right off the top of my head but I think that, you know, suggesting that the organizations need to kind of have that level of participation in order to get protection I think is, again, taking us down a bad path as a policymaking organization.

Not suggesting that so the criteria should be any different but that there should be, you know, a methodology, some sort of clearing process. And, you know, unless the GAC kind of wants to volunteer to put that process together it should be something that's kind of, you know, fair and open to organizations kind of regardless of their clout. Thank you.

Thomas Rickert: Thanks, Greg. I would like to go through the various areas of protection with you and ask for comments. And I also have some questions for the Registries. So I would very much like to start our discussion or this phase of our discussion by talking about the top level protection so top level protections for identical match names.

Now the Registries have proposed that the names should be protected. I assume that this protection would be implemented by way of using the reserve names list. We have heard David Roach-Turner, during last week's call, claiming that they would like to keep the option for the organizations in question that are on the list to actually to be able to apply for their own TLD for the full name.

So how or have the Registries given that some thought? So you would need to go to the GAC then and ask for removal from the list. Because, you know, in terms of implementation I am unclear as to how the process would work. Is that something that David or you, Chuck, could answer?

Chuck Gomes: Sorry, Thomas, this is Chuck. I was typing in the chat so I wasn't paying attention. Could you repeat the question or David can respond if he'd like.

Thomas Rickert: Sure. Let me try to repeat the question first. The question was since the IGOs - or David has put up his hand now so he can also argue his case. They've asked for the possibility for the IGOs to apply for their full names as TLDs. And I understand your proposal to be such that the list would be added to the reserve names list and that that list would be put into the Applicant Guidebook or the next version of it. It would not be possible to apply for those names.

And my question is whether you have given that some thought and whether you also have a solution for that at hand. I see David in the queue so let me take David first and then David - and hopefully you will both touch upon these issues.

David Roach-Turner: Thank you, Thomas. The answer, I suppose, that I would posit to that first question about how the - how the process of enabling IGOs who would wish to register their full name in any subsequent rounds at the top level would work and how that reservation could be carved out.

My suggestion would be that it be carved out I suppose in a similar way to the reservations which currently exist for country and territory names so that it be included in a reserve list in the Registry Agreement and it simply state that the following names of the following IGOs will not be eligible for registration in any subsequent rounds other than with the agreement of the relevant IGO whose name is protected.

Thomas Rickert: Thanks. That's helpful. David.

David Roach-Turner: I also - if I may? I also have a question for Chuck.

Thomas Rickert: Please go ahead.

David Roach-Turner: Thanks. It relates specifically, Chuck, and thank you very much for coming with that proposal and for taking it forward within the Registry group. I think it's a very interesting proposal and it was good to have had some discussion around it in Beijing and also in the meeting last week of course.

Without getting drawn into questions about some of the underlying assumptions which you note at the outset of the proposal - and I think IGO positions on the legal merits of our case, as we said, have probably been made fairly (unintelligible) in the record previously so I won't get into that again here.

But it's a very interesting proposal. And I do have one question as well which Stephane I think also touched upon earlier. In the proposal as it currently reads there's a provision which is made I think it's in subparagraph D for an exception process whereby an organization not covered by any protections but having legitimate rights could apply for a protected name.

And the question that I have for you, Chuck, is whether the proposal, as you envisage it, would also have the inverse effect. That is to say that an organization which is not covered by any protections and would not have any

legitimate rights, would in effect, be precluded from applying for a protected name, which corresponds exactly to an IGO acronym.

Chuck Gomes: Thomas, this is Chuck, do you want me to respond?

Thomas Rickert: Yes, certainly. Maybe you can - but I'd like to ask David first because he was in the queue whether he wanted to respond to or add to the first part of the question.

Chuck Gomes: Okay.

David Maher: No, I'll take my hand down.

Thomas Rickert: Thanks, David. Back to you, Chuck.

Chuck Gomes: Okay. So to - for David's question, the exception process, as I think I said in an email post in response - it may have been a response to Avri - a question Avri asked or a point Avri made - is that the exception process we would see - or I would see - I don't know if the Registries have formed a clear position on this - but would be very straightforward.

If a organization that had a trademark to a name, whether that be a full name or an acronym or not, applied for a name so they've - and they're in the trademark clearinghouse so they've demonstrated that they have legitimate rights, and we could add - we didn't say this in our statement but this is, again, me speaking personally, we could add a clause that they would commit not to do anything that would cause confusion to the protected organization's name, IGO or IOC or Red Cross. Then they could do so.

Now if there's somebody who wants to apply for a name and they can't demonstrate rights they would be rejected. And the demonstrating rights would be in the trademark clearinghouse to keep it very simple and straightforward. Did that answer your question, David?

David Roach-Turner: It's a very helpful answer, Chuck. So as I understand it it would be the trademark clearinghouse that would be the - that would perform the role of validating whether or not a prospective registrant would have legitimate interest in registering a domain name according to certain criteria that could include a preexisting trademark. And...

Chuck Gomes: This is Chuck again. The criteria for getting into the trademark clearinghouse is defined so there wouldn't be any new criteria added. If someone can demonstrate rights via the trademark clearinghouse and, in the case of the IGOs or Red Cross or IOC, if they're also added to the trademark clearinghouse that would allow them to register their own names.

David Roach-Turner: So if you've got a - if you've got a trademark in the clearinghouse that corresponds to a protected IGO acronym you could register a domain name that comprises the protected IGO acronym?

Chuck Gomes: Yes.

David Roach-Turner: And if you would be in any other category you could not register such a domain name?

Chuck Gomes: That is correct. And, David Maher, if I'm misstating anything please correct me.

David Maher: I agree.

Thomas Rickert: David, does that answer your question? You still have your hand up.

David Roach-Turner: It does answer the question. Thank you very much.

Thomas Rickert: Thanks. I have Alan next.

Alan Greenberg: A couple of things. With regard to that last point, which isn't why I put my hand up, I - and I suspect the At Large will have significant problems that only registered trademarks could demonstrate, you know, a valid use of one of these marks. The trademark clearinghouse explicitly omitted common-law trademarks on registered trademarks which are prevalent in large parts of the world. And there may well be an issue there.

However, what I put my hand up for is, Thomas, I think you're adding to our problems by saying what the Registries mean is we should put it in the reserve name list. I don't think we should be using capitalized terms here. I think we should be defining what we want to happen. Whether it ends up being called a modified reserve names list or something else really does not alter the impact of it.

And by saying it needs to go - it has to go into the reserve name list therefore there's a problem of how do the valid parties register if I think just creates problems where they don't need to exist at all.

There are plenty of processes already in place by which names can only be used by certain, you know, approved bodies. Just look at the existing TLD for DotMuseum where only real valid museums can apply; or the projected one for DotNGO where everything is reserved unless you can prove you're a valid NGO and in which case suddenly the door opens and you can register your own name.

So I don't think we need to - we need to make sure that what we're recommending is implementable but assigning capitalized names to it I think adds to our problem and not lessens it. Thank you.

Thomas Rickert: Thanks, Alan. And you will remember that I've asked the Registries for clarification as to what they had in mind so I wasn't necessarily assuming or proposing that it actually should be or needs to be the reserve...

Alan Greenberg: No I - Thomas, I...

((Crosstalk))

Alan Greenberg: ...I understand that. But what I'm saying is we don't need to even ask that question. They've made clear functionally what they want or what they're recommending and I don't think we need to go further than that. Thank you.

Thomas Rickert: And is that a proposal that you would be supportive of?

Alan Greenberg: I'm not answering that right now certainly not on behalf of At Large; we haven't discussed it.

Thomas Rickert: Okay maybe you (warm up to it) during the call because certainly I want to get some immediate feedback from the working group participants understanding that all of you...

Alan Greenberg: I can - Thomas, I can do that now if you want or get back in the queue later, your call.

Thomas Rickert: Yes, I mean, the - what I need to understand is what the level of support from the working group participants is and certainly you can't speak on behalf of ALAC prior to having discussed this with them. But I guess it will be helpful anyway to see whether we're moving into the right direction as we move on.

Alan Greenberg: I think we would be generally supportive of this. The inclusion of the IOC names on the same line as the RCRC is problematic because the ALAC and At Large have always taken a position they should be separate and perhaps treated differently.

Other than that on quick glance I don't think we would be unsupportive of it. The ALAC has strongly supported select INGOs based on criteria, not based

on purely being on a list as being eligible for protection. And I think the ALAC would continue that position.

So there were aspects of this which I think the ALAC would support. There are other aspects which I think we would have a different tact on.

Thomas Rickert: And, yeah, if you could I would certainly be interested in finding out what the issues that you have are and in what way the recommendations or the proposed recommendations would need to be tweaked so that they could find the support of the group that you're representing.

I guess Chuck had his hand up as well. Is that...

Chuck Gomes: Yes.

Thomas Rickert: It's down now. Did you want to speak though?

Chuck Gomes: I did. And by the way it may take ma while to lower my hand because I just lost network connectivity so it'll take me a little bit to get back in so ignore it after my comments here until I put it up again.

With regard to how it's implemented, I mean, Alan, your points are well taken. That can be dealt with. There is a case right now in the Guidebook, in the specification for the Registry Agreement, that in the case of two character domain names there is - they are reserved but there's an exception to those reserve names if there's - and there's a process to follow that an applicant could get permission from the applicable country representative to - that registering a name would be okay.

So again we don't have to solve the implementation issue. Whether it's a special reserve name list or reserved like the two character country codes with a way to get approval of it I don't know that we have strong feelings one way or the other on that. So I think I'm in agreement with you on that, Alan.

And I'll get my hand down as soon as I can.

Thomas Rickert: I guess your hand is down now. Actually you are - I even can't see you in the Adobe. Alan, you have raised your hand again.

Alan Greenberg: Yes, thank you. Just for clarity I don't disagree we need to come up with implementable solutions and perhaps even think of the implementation. I was suggesting that we not assign defined names to these things which may then create problems for us as opposed to simply being clear on what it is we want. Thank you.

Thomas Rickert: Thanks for this. As regards to top level protections again for identical match full names is there anybody in the group who would be strictly opposing such a recommendation? Avri, you have responded to this point on the email list and you've said something along the lines of that you don't like it but that you think the battle is almost lost.

And I was curious to understand how that would translate into a position that you might take as a participant of this group. Avri, I'm not sure whether you can hear me? At least you're in the chat. Okay so obviously I'm not able to get through to - ah so Avri is now writing that she would oppose it.

And my question to you then would be is there a way we could tweak it so you would like it? For those who are not in the Adobe my silence is now waiting for Avri to hopefully respond in the chat because I guess she doesn't have audio.

Avri Doria: Yeah. This is Avri.

Thomas Rickert: Avri.

Avri Doria: I just turned on audio. I'm assuming I can be heard?

Alan Greenberg: Yes.

Thomas Rickert: Yes.

Avri Doria: Yeah, I realize that this top level protection is the one that was put in temporarily by the (Board) and that we've sort of been assuming all along that it would - it would persist.

I believe that for any next round that the procedures that we have in effect in already for challenging any names that aren't appropriate we've seen what GAC does with challenging any names that aren't appropriate. But I don't believe that we need to put any a priori prohibitions on names.

The largest problem I have with it is, as you'll notice before, I totally reject the notion - and I think it's problematic of a reserved list that things go on to and off of by some procedure.

So in this case we're saying we're going to put names on a reserve name list for the top level and - but we're going to allow those (to) the whole process there as problematic.

In principle I have no problem that nobody but the Afghanistan Red Cross can have DotAfghanistanredcross. But I don't see us needing to create a reserve name list for the top level in order to achieve that. I think, A, that's overkill; I think it's unnecessary. I think the list gets too long. I think who is on that list and who is not on that list is still too complicated.

We have IGOs - and I look at IGOs beyond those that we're currently talking to that might have meritorious claims to make. We have to persist with this - the model that the new gTLD group came up with in the first place is that there are many ways to prevent a bad application for a inappropriate top level domain.

I think (unintelligible) with the GAC and others in terms of all the various kinds of names that shouldn't be applied for at the top level and that's a subject that's still sorting itself out.

So starting to create lists like this that put names in at the top level and then having to take them off if an appropriate person applies for it I think are really just unwieldy and unworkable and so, yeah, I remain opposed. Thanks.

Thomas Rickert: Thanks, Avri. So in other words, you know, if you think that's too cumbersome we had an alternative proposal on the table which we discussed in Beijing and also touched upon, I guess, during the last call and that was allowing the respective organizations to have standing for an objection and maybe attach a fee waiver to it.

Because for the top level I guess the chances for abuse are quite slim given the huge costs and the administrative burden of putting in an application. Is that something that you would be more favorable or supportive of?

Avri Doria: Sure.

Thomas Rickert: Thank you, that answers the question. Alan.

Avri Doria: I'm having...

Thomas Rickert: Go ahead, Avri.

Avri Doria: I expect so. I certainly would support, you know, I'm not quite sure how we - right - I'm (fine) it. I'm certainly in favor of fee waivers for all kinds of things on the outrageous fees that ICANN charges for things. So I'm certainly part of any effort that wants to find fee waivers for, you know, charitable organizations that meet a certain threshold or however we would put it. And I'm not trying to define it now. So that makes sense.

I think giving them standing and making sure that they have standing to object to names being misused is also quite reasonable. Those are certainly the kinds of things that I see working into, you know, future rounds. So, yes, that - it's just putting things on a reserve list or changing the nature of the reserve list and starting the muck-about with that is what I'm very resistant to. Thank you.

Thomas Rickert: If I may I have one follow up question and that is regarding the eligible parties to that. Would you also be supportive of an approach whereby this standing or fee waiver or whatever privileges might be attached to it would be offered to organizations that are on a list provided by the GAC subject to predefined criteria?

Avri Doria: Yeah, I mean, as I say - and at the moment I'm still speaking personally because I haven't worked all this through with the NCSG yet. But certainly my - I tend to go wider in most of these cases that says if we're going to offer fee waivers then a list created by the GAC is perhaps a basis for that but I'm (unintelligible).

I tend to believe that when we talk about fee waivers for charitable organizations, for community organizations, for all sorts of organizations to be able to defend their names in the objection processes that we define, have no problem with giving that kind of reduction to lists on a GAC list so that they can participate in the procedure. I would probably want to define it wider than just a GAC list.

Thomas Rickert: And the - and this is going to be my last question, sorry for this interrogation type of follow up questioning. Your wish to have fee waivers for other types of organization would be a condition or a wish that you would like to present and connect to this?

Avri Doria: Well as I said I do not support putting them on a reserve name list. So to say it's a condition I can't imagine at the moment what would make me supportive of putting things on a reserve list.

I understand that may end up a (minority) position and so be it. But I believe that that's too complex. I believe changing reserve lists to work like that is problematic so I'm not...

((Crosstalk))

Thomas Rickert: Sorry, Avri.

Avri Doria: ...that is a condition for me to put things on the reserve list.

Thomas Rickert: Sorry, Avri, I have...

Avri Doria: Yeah, sorry.

Thomas Rickert: ...probably not made myself clear enough. But you said that you might be supportive of a fee waiver but you would also like to see fee waivers for other organizations that are not mentioned on the GAC's list.

And my question to you was whether this opening up to other third parties would be a condition for you to be supportive of the fee waiver of the listed organizations or whether that would be a wish that you would like to add to an unconditional support of a fee waiver for the listed organizations.

Avri Doria: Okay. I - thank you for - it would probably be something that I would agree with caveat to.

Thomas Rickert: Okay. That answers the question. Thank you, Avri. And I have...

Avri Doria: As I say this is still me and it's not NCSG. But it's...

((Crosstalk))

Thomas Rickert: Well that's perfectly understood. And that goes for everybody in this group. I understand that you all need to go back to your respective groups for further discussions. But I guess we as a group need to find out whether we can move in certain directions or not.

Alan, please.

Alan Greenberg: Thank you. I think I can say that I and ALAC pretty much support what Avri was talking about at the first level. We've made it clear before that we do not believe any reservation is required but we want - we do agree that there needs to be an objection process, likely with low or no fee, that would allow these organizations to have the effective equivalent of their names being reserved unless they were applying for it.

But without the cumbersomeness of having specific lists, you know, that are not likely to be applied for anyway and that we can cover with some level of an objection process. So we've taken that position before and I think I can say we'd take it again.

I also think that we would want to see it widened but I'm not sure that we would refuse to grant it to IGOs just because it wasn't being granted to INGOs. We would push for that as a separate issue I believe. Thanks.

Thomas Rickert: Thanks, Alan. Now we - we have had this discussion quite some time ago but I think that we, you know, it's worthwhile to get back to this now and that is the policy recommendation from this group can also be that top level protections, as they are, are robust enough if we, you know, give a fee waiver or if we provide for standing for these organizations.

So I would like to hear from the organizations that have asked for protections whether that is something for the top level. Let's bear in mind we were just talking about identical matched names at the top level whether that's something that you would be willing to consider or even be supportive of because certainly that would make things much easier in terms of implementation.

And if you would agree that a fee waiver would be something that would be sufficient for you to cover the risk which is probably very unlikely that somebody who applies for an identical match application, you know, it would save you the trouble of applying for an exemption if you as an organization wanted to apply for corresponding TOD.

So can I ask the can I ask the IGOs, IOC, RCRC to maybe get back and Claudia I'm representing INGOs with the ISO to respond to this? (Kieran) or maybe it's Jim I don't know?

Jim Bikoff: Yes it's Jim. I think we strongly support the GAC recommendation. And we believe that's the way to go on this.

Thomas Rickert: Okay thank you. Any further comments?

Stephane Hankins: Well Thomas yes on behalf of the Red Cross Red Crescent I have a feeling that we - we've trodden this ground before. I mean we support the GAC's proposal of obviously.

But as regards, you know, this additional question which has emerged with regards, you know, names of organizations which are not on the list of names covered by the current moratorium.

You know, I suppose this would be, you know, the least it would be required regarding the names of the Red Cross Red Crescent's organizations and indeed, you know, that standing and waiver fees be considered. Thank you.

Thomas Rickert: Thanks Stephane. Alan?

Alan Greenberg: Thank you. I'll just point out perhaps it's obvious to some but maybe not to everyone that what we're suggesting was an objection process as opposed to a list is a stronger set of protections.

It could provide protection to the Red Cross for all of their national names the Canadian Red Cross, the American Red Cross and things like that on the unlikely chance that someone is really going to invest to apply for a top level domain with that name who is not the proper organization.

So what we're talking about is a much stronger level of protection than the identical match that's being suggested. Thank you.

Thomas Rickert: Thanks Alan. David?

David Roache-Turner: Thanks very much Thomas. From a WIPO perspective and I guess from an IGO perspective more generally surprisingly we fully support the GAC advice on this issue and we think that that's also the way to go on the issue of IGO protection of names and acronyms.

We also recognize I think that there is - there's an ongoing discussion obviously which were all having now within the GNSO process as well.

And I think we were discussing very constructively last week some of the seed points that the GNSO deliberations might usefully make into the GAC discussion but I think that was constructive.

I think there is recognition from the IGO perspective that there needs to be a mechanism to manage the issue of coexistence particularly of the issue of acronyms at the second level. And I think we've discussed some examples of that.

But the - from the IGO perspective of course it's the IGO acronym that is typically used in practice for many if not most of the concern IGOs as they go about their public work to identify themselves.

And it's of course the identifier which is most at risk in terms of potentially abusive registration in an expanded DNS.

So obviously the GAC advice is on its face advice which would be cost neutral from the perspective of IGOs.

And certainly we favor discussions in this GNSO process where the solutions under discussion are also as cost mutual they can be given the nature of the work that IGOs performance public nature and the fact that it's performed on the public dime.

And I think we also support, you know, further discussions on processes which manage the issue of coexistence at that second level in terms of the acronym.

I mean I think our objective is certainly not to preclude legitimate third party users from registering domain names that correspond exactly to protected IGO identifiers.

And, you know, there is a need for a procedure hopefully a simple and cost neutral process if possible to manage that tension while at the same time also not opening the door to potentially limitless cases of abusive registration as well.

So be at that tension point where I suppose we are now but I think the proposal from Chuck and the registry group is a very interesting one.

It's - it was good to have that point clarified that I mentioned earlier. So thanks again for that Chuck. And we'll get back to you hopefully with some more specifics on it once we've had an opportunity to consult within the IGO coalition.

Thanks David. Claudia?

Claudia MacMaster Tamarit: Hi Thomas. Speaking for ISO and perhaps for other INGOs as well we would not be in a position to be able to support the GAC advice as a complete recommendation for special protection for international organizations for a couple of reasons.

One obviously it ignores the very important international public interest work of INGOs like ISO and the need for special protection of those of the names belonging to INGOs in domain names.

But secondly also we take real issue and have great concern with the idea of a consensus based exemption.

If reserve names lists were the way to go in terms of special protection it's in congress to the real world where organizations like ISO have used acronyms that happen to match IGO acronyms for decades...

Thomas Rickert: Claudia?

Claudia MacMaster Tamarit: ...before even the creation. Yes?

Thomas Rickert: Claudia sorry. I had asked for comments on identical match names for the top level. I'm afraid we're now moving to acronyms and even second level protections.

So can I ask you to confine your comments to the proposal that's on the table for identical match top level protections?

Claudia MacMaster Tamarit: Sure Thomas. I guess I was a bit misled as well just hearing that some other participants were discussing acronyms as well.

In terms of the full match again I think it goes without saying as I said number one when whole swathes of organizations that do very, very important work are sort of ignored that's problematic per se.

In terms of a reserve name list that matches the exact name of an organization I think that that's a different question altogether and I will not make a statement on that particularly.

Thomas Rickert: Thanks Claudia. Mason you've lowered your hand or...

Mason Cole: Yes. I lowered my hand. I thought we were going to start talking - it seemed like we were migrating into acronyms and I had a point on that but no if we're staying precise on the other point then no I'll lower my hand on that.

Thomas Rickert: Yes but, you know, I guess the reason why participants are now moving to discuss second level and acronym protections might be that all that had to be said on identical match top level protections has been said that they wanted to say.

So to sum things up I guess that the two positions that we now have on the table for identical match protections at the top level are one as presented by the registries.

And then the other one regarding, you know, no list based protection but a fee waiver and then providing for standing for the organizations in question.

We I will think about the - and try to analyze the level of support for the respective positions after this call.

And I'd now like to move to point C actually and that would be the - sorry to B. And that is the application for protection for full names at the top and second level prior to finalizing list of qualifying organizations.

My question is I haven't been entirely sure when I read this what does the requirement of replication mean in the sense?

So we would have to listen. And then on top of that the organizations in question would need to apply for protection. David, Chuck is that understanding correct?

Chuck Gomes: This is Chuck. And I just got back into Adobe Connect so - but I've been on the audio all the time. The application is - the reason for it is very simple first of all.

If an organization really doesn't care to be protected there's no use protecting their name. Now if they're on one of the lists then it's a straightforward manner of saying yes we'd like protection.

There, you know, you don't have to evaluate any criteria there on the list. If they're on the list they can get the protection whatever we - whatever that protection is defined to be. Does that answer your question?

Thomas Rickert: It does. I was just not sure what you had envisioned in terms of application. That's good.

Chuck Gomes: This is Chuck again. As you can see our recommendations are really very straightforward to implement. So even in this case, you know, it's pretty straightforward.

If you check the list, that they're on the list, and they want - they have to communicate that they want protection that's it.

Thomas Rickert: Any comments on that particular point? Greg.

Greg Shatan: Just as a philosophical point. I think it's kind of - we need to decide I guess I would feel more comfortable with, you know, protecting a class of organization rather than just making the class and eligibility requirement but then, you know, requiring an application as well.

You know, failing that I would, you know, suggested perhaps there should be some outreach process for the organizations that are on the list so they're kind of aware of what's going on.

We all live in a world where to a greater or lesser extent this is - this whole gTLD process is something we're very aware of.

But the bigger world is shockingly unaware of it and may not be aware of it until it's too late. So I think that is part of, you know, ICANN's general need to improve outreach to those who are not fixated on this.

There should be either we should protect the class as such or we should make sure that it's - that a decision not to apply is more likely the reason that an organization that could get this protection doesn't rather than that somehow they kind of missed their stop on the train and now they're, you know, condemned to not have that opportunity.

And part of it also may have to do with I'm not sure whether there's a point in time when it's too late or if that application can be made at any time it will only be too late as to sunrises that had passed or new gTLDs that are already kind of been delegated. Thanks.

Thomas Rickert: Thanks Greg. Certainly I can't speak on behalf of the registries but when I read the proposal I guess the nice thing about that would be that we would take a list produced by the GAC on an assess basis.

And my instant reaction to your concern would be to play the ball back to the GAC and say okay for those organizations that you choose to add to the list please do make sure that they're aware of the requirement to apply for protection because ultimately the GAC has made very clear a couple of times that the IGOs that they're seeking protection for our their creatures more or less.

So I guess that, you know, they could easily reach out to those but that's just a personal comment and your point is well noted. Mason.

Greg Shatan: Thomas could I just follow up very briefly on that.

Thomas Rickert: Yes please do, please do.

Greg Shatan: I guess one way to look at it is whether this process there are kind of three choices. And I think that the proposal kind of goes to the maybe it's the middle ground in a sense.

One is that it be automatic, another that it be an opt in process which is what the proposal asks for, and the other might be that it's an opt out process. Thank you.

Thomas Rickert: Thanks Greg. Mason.

Mason Cole: Thanks Thomas Mason speaking. I - actually I had a question about that because I admit that I'm not familiar with the process the GAC used in formulating its advice on the list.

I noted that they said they consulted with an IGO coalition but I don't know how they went about that or - and whether or not they made a similar overture to INGOs that would be helpful for me to know.

Well I guess the - we have one person on the call that would be qualified to respond to that and that's David Roache-Turner who is on the - who is representing the IGO coalition. So David can you please speak to that?

David Roache-Turner: I certainly can with apologies that I missed the last 30 seconds of the question. As I understand it was a question about the IGO coalition which IGOs are in it and which - and whether there are other non-IGOs also participating in that group.

Mason Cole: No not exactly. The question was more how did the GAC consult with IGOs to arrive at the list that they did in their advice? And did they make similar overtures to INGOs?

David Roache-Turner: Oh sorry okay. So I can't speak about the INGO issue because I don't have any information on it. But there have - there has been a coalition.

It's about 40 IGOs currently which have been working with the GAC since the Toronto meeting at the GAC's request in light of their advice to the board on production of a list of IGOs that would meet the criteria that the GAC had determined would form the appropriate basis for protection of IGO names and acronyms.

And that basis as we all now know has its foundation in the eligibility criteria for an INT domain registration.

And the process of putting that list together involved several inputs. There is data at the moment for example that's publicly available about IGOs which have communicated their names and acronyms for purposes of protection under Paragraph 6 of the Paris convention.

And there's a database which contains the names of those organizations. So we started with that. And then working with the GAC we took that list and we

applied the criteria that the GAC had determined would be appropriate for identifying eligible IGOs which built on the existing standard as I said for INT.

And an assessment was conducted of all of the relevant IGOs to see which of them satisfied the relevant provisions. There were three criteria for assessment.

The first was whether the organization was in IGO with a treaty basis which possessed international legal personality.

And then so there was an assessment conducted on that basis and all identified organizations which met that our standard were listed.

We then looked at with the United Nations the IGOs which were additionally identified which are UN observers for the purposes of this - for populating this particular list we didn't look for non-IGOs which were also UN observers in response to (Stefan)'s question earlier because the purpose of the production of the list was to identify IGOs and not other types of organizations.

And then the third category was the - was to take account of the RGOs which are UN funds and programs but which do not necessarily have a treaty basis because there were some RGOs which had been identified when the GAC was considering initially whether the existing INT eligibility criteria for the INT domain would of itself be sufficient to provide the protection for non-IGOs.

It was discovered that there were a number of prominent IGOs including for example UNICEF, UN Aides among others which are IGOs which are funds and programs of the UN but which have not been established by treaty as such. And so there was this third criteria which was brought into the GAC advisory for that reason.

And that also explains the slight discrepancy that Stephane mentioned between the IGO as the definition of IGO as included in the applicant

guidebook for purposes of the legal rights objection mechanism for example which is a virtual cut and paste of the eligibility criteria for the INT domain. In the...

Berry Cobb: Let me I'm sorry I don't mean to be rude and interrupt you.

David Roache-Turner: Sure.

Berry Cobb: I think I got most of the answer there. So - and I'm familiar with the criteria. I just - I was looking for a little bit more color on how just process wise that was arrived at.

So just in the interest of time if I may I'll stop you and I think...

David Roache-Turner: Yes sure.

Berry Cobb: ...so thank you very much. I'm taking my hand down Thomas.

Did we lose Thomas? Thomas this is Berry. Are you on mute maybe?

Thomas Rickert: Sorry. I was on mute. I was already wondering why nobody would respond to me speaking. Excuse me for that.

Berry can you bring back the recommendations please. So unless there are more questions for - on this subject I guess we can then moved to point C it is and that is opening up clearinghouse US and UDRP to include the acronyms.

Does anybody want to comment on that? I guess that during our past discussions there has been quite some support for the idea of having a central repository of entries and then base services on. And this has been now, you know, narrowed down to opening up the TMCH, URS, and UDRP.

We have earlier talked about an ICH and identifier clearing house but certainly if we can use something that's already in place that would make the operationalization of that much easier. I see Mason's hand please.

Mason Cole: Thanks Thomas. Mason again. The - as I noted in my email the registrars haven't formed their final opinion on this but I believe we're looking favorably at the idea of using RPMs to offer some level of protection to acronyms.

The - just while we're on the subject of acronyms I know that we haven't covered exception processes well but before we get to that topic I want to give a registrar point of view on the operational difficulty of exception processes.

I know this was raised in the board's meeting with the GAC by Chris Disspain who pointed out a couple of examples about how exception processes would be difficult to implement.

From a registrar point of view I can't agree with that more. It - it's - it could be extremely difficult to try to explain to our customers why they're not entitled to a name depending on what the, you know, what name is in question.

So when it comes to the issue of acronyms either on adding them to the right protection mechanisms or subjecting them to exception procedures I just - I would ask the working group to approach those considerations with normal end users in mind and how those situations would be presented because I'm concerned that we sort of oversimplify these things in our own heads when we don't take into account the complexity that's involved.

Thomas Rickert: Thanks. That's very helpful. I have Alan next.

Alan Greenberg: Thank you. I strongly support what Mason just said. You know, protections in the forms of claims notices certainly that might be possible.

But absolute protection or protection requiring the organization itself to allow the usage I think just goes far too far. Thank you.

Thomas Rickert: Thanks Alan. And if we look at the wording of recommendation C it actually speaks of names and acronyms.

At the same time we're talking about an exemption process. And I'm wondering if we have the TMCH opened up for names and acronyms what would be the scenarios in which an exemption process would then be needed because if somebody - are you have the registries thought of potential contentions during sunrise between an eligible IGO in that case or IOC and RCRC and legitimate third party users because I guess that if we did have those contentions to sunrise that the dispute resolution rules of the respective registry would then apply. Mason.

Mason Cole: I agree with your statement. I think that if that avenue - if we went down that avenue then the exception procedure if not obviated would be much less necessary. And that's appealing from a customer point of view.

Thomas Rickert: Thanks. That's helpful. Do we have more comments on that?

Okay just to be clear on this the proposal as I read it means that the names and acronyms at the second level would be or could go into the TMCH which would require the organization in question to go to the TMCH or an agent.

And then it could benefit from the sunrise service and from the trademark claim service for the initial 90 days for each new gTLD.

To be quite honest I have, you know, when I outlined the potential compromise in Beijing I had thought of acronyms to be legible for the TMCH but so thought of other types of protections for the exact match names.

I mean this is certainly a solution that's much easier to implement because it bases on this existing processes. But I'd like to hear some views from you.

So if you don't like this idea would like you to speak up or at least signal that to me.

Alan?

Alan Greenberg: Can I be blunt? Are we really worried that someone else is going to attempt to register the United Nations International Children's Emergency Fund?

Thomas Rickert: Well if it's a question that you're asking me my response would be no that's quite unrealistic. So I just want to make sure that everybody's on the same page in terms of the recommendations.

Alan Greenberg: I think for the full name we can - any defined list so it's easy to implement we can provide almost any kind of protection. And we're adding bureaucracy but I don't think it has any net effect on the end.

On the acronyms I think we have to provide flexibility because there are so many other organizations that use the same acronyms validly.

So without trying to define what the exception process might be or whether it's just a claims notice if it doesn't end up with people, with organizations and people being able to use reasonable short multi-letter names which map to their own organization it's not likely to be acceptable to our community. Thank you.

Thomas Rickert: Thanks Alan. Greg.

Greg Shatan: Two things. I think I agree with the second part of what Alan said. I think at least at the second level I don't think it's unrealistic that there will be people out there who will try to impersonate IGOs, INGOs, other organizations.

You know, just kind of as a, you know, random point that I heard there were well over 100 bogus relief Web sites that sprung up after the Boston Marathon bombing any one of which would have been happy to take your money.

So the capacity for scoundrels out there to try to imitate the good organizations is no less than it ever was.

But I agree that a rational and measurable, you know, exemption - exception process where there are equally valid organizations that can go after the same acronym, you know is, or even after the same name conceivably but not likely makes sense.

But so the illegitimates are the ones that are, you know, the concern. Thanks.

Thomas Rickert: Thanks Greg and it would certainly be worthwhile examining whether the scams have used exact match names or variations thereof. And as far as the Boston bombing is concerned I've seen a lot of scam without domain name just using an IP address which I haven't seen on that - at that high numbers for other scam.

Let me move to Mason.

Mason Cole: Thank you (Tom). It's Mason speaking.

Yes I agree there's - I mean in my experience representing registrars there's plenty of scoundrels out there and there - it's always a - it's always going to be a difficult proposition.

Operationally when it comes to full names to follow on Alan's point full names at the second level I seriously doubt there's going to be massive attempt to

register worldhealthorganization.tld or internationalsugarorganization.tld in the full spelling out of those names.

Where registrars get concerned on the issue of second level usage of acronym is competing interests for legitimate uses of the acronyms. And I'll give you an example to follow on the World Health Organization.

who.health is one thing, who.music may be something else because it may represent the band that we know as the Who.

So as Chris Disspain pointed out in the board meeting you may find yourself in an exception procedure where one organization feels like they have to go to the other to say may I please use the name to which am entitled or a commercial organization that is entitled to a second level string comes to us to register that string, has no idea anything about ICANN deliberations about protection of various ITO acronyms and says wait a minute, what do you mean? You know, I have a trademark on this term. What do you mean I have to go ask the ITO for usage of the name? I'm entitled to it.

And then it's left to the registrar to try to explain that situation. And that's operationally very, very difficult for us.

So this is the situation that registrars are trying to avoid in the first place. And thus if we can arrive at an operational and result that allows multiple entitled entities to use the strings of characters to which they're entitled without having an exception procedure that I think is what we're trying to drive at. It's much fair for everyone involved and it's way less confusing for the end-user.

Thomas Rickert: Mason I have one question for you then. So you're basically saying that one would need to match the acronyms to certain TLDs in terms or categories or goods and services what have you to not overreach by blocking who for the .music TLD. Is my understanding correct?

Mason Cole: Well I'm not sure of the question. I mean if you're asking does this workgroup need to somehow subdivide the usage of second level strings according to the TLD no, I don't think that.

I think our task is assigning appropriate level of protection to IGOS as we see fit.

And the registrar's point of view is that second-level acronyms should not be on the protected list because they're competing interests that have legitimate usage for those names so...

Thomas Rickert: So you would go with registries propose and add them or allow them into the team (stage) right?

Mason Cole: Well as I've said in my email I believe registrars are going that way but I need to finish consultation with registrars. So I can't represent that as a formal position yet. I'm sorry I would like to be able to but we're not there yet.

Thomas Rickert: Yes Mason Cole, not the registries, not the registrar. So thank you for that clarification. That's very helpful. Avri?

Avri Doria: Yes thanks. Speaking personally I certainly would not be supportive of anything that did any - a prior blocking on any acronym.

In terms of full names of organizations I really don't have a personal problem with blocking those. Where I have a problem is with unblocking them for the appropriate users.

In other words if World Health Organization wants its name blocked that's all well and good and I can probably not argue with that.

If they want their name unblocked then the only process that I'm supportive of is going through the (Rcept) and that sort of thing, not creating a second process.

In terms of the acronyms I'm not sure that I have a problem with them being in the trademark clearinghouse with the presumption that of course anybody else that has a good use for them can use them and, you know that to not use them you would need to show malice.

But I'm sure and I would certainly have to go back and talk to the NCSG on that but I certainly don't - wouldn't find support either in the NCSG or myself for any sort of blocking on any sort of acronym. Thanks.

Thomas Rickert: Avri I have a follow-up question for you too. So allowing the acronyms into this TMCH would be something that you could support.

You were mentioning that legitimate third-party use still must be possible. And I'm sure you do know that by getting access to sunrise the acronym holder might prevail over other types of users.

Avri Doria: Yes, no I understand that and that's why I'm sort of iffy on it. But it does a possible pass where another that you could make a principled claim for being able to use the name.

So as a compromise point I can see using the TMCH for that. I prefer the URS and URDP mechanisms but in the sunrise yes I tend to accept the TMCH assuming we understand how the TMCH works out in the long run and we don't end up with an acronym that has 50 varieties of that acronym which of course becomes a real problem.

So, you know, part of this depends on what the TMCH actually ends up looking like because if we're talking about the acronym WHO and 50 variants of WHO I'm not sure what we're talking about so it's...

Thomas Rickert: Well it certainly being the variation would be...

((Crosstalk))

Avri Doria: But that's as far as one would go.

Thomas Rickert: Thank you very much Avri. I guess that's very helpful and thank you for considering a compromise position on the acronyms for the TMCH which is certainly a move having followed the discussions over the last couple months.

Alan and Chuck I would like to ask you for patience for a few minutes because I saw Mary writing in the chat that she personally thinks that allowing acronyms into the TMCH as such might not find full support of her group but that offering the trademark claim service might be a potential compromise.

And this is - and this is why I'm now asking Mary because that's the exact point that I've asked Avri now because you obviously want to eliminate the benefits of the sunrise phase for the acronym holders.

And Mary I'm - I just wanted to double check with you whether you might also be willing to consider acronym protection as a compromise for the acronym holders?

Mary Wong: Thanks Thomas. I hope you guys can hear me (unintelligible).

((Crosstalk))

Thomas Rickert: We can hear you well.

Mary Wong: I couldn't (unintelligible). Great. I think that's right Thomas. I think that's a fair summary, a very excellent summary of what I just said.

And of course I'd remind the group that I don't know the level of support for this but mine is that any protection for acronyms would be like I said in the chat would have to be limited, would have to be an exact match basis. And we may have to designate as between the different types of mechanisms.

So I think sunrise would be much more problematic than the claims notice (stuff) of the URS precisely because NCUC has always been concerned about the balance of interest and protection especially to Mason's point earlier about looking at it from the user's perspective.

So anything beyond that -- and I haven't even tried the group on that -- I think anything beyond that could be problematic due to concerns that the group has raised in the past not just for this issue but generally about the trademark clearinghouse mechanism.

Thomas Rickert: Thanks Mary. Maybe when you consult with NCUC you might take into account that the issues are actually limited to the sunrise period in scenarios where during sunrise legitimate parties are not able to participate in sunrise.

And there are several instances where they could one of which being trademark owners that have - that also have an entry in the TMCH and in case of competing applications during sunrise between and IGO the trademark owner, the dispute resolution mechanisms of the respective registry would apply. So in that sense it would be a level playing field.

And also it is possible that the registry would also honor other rights rather than - or in addition to rights that have been entered into the TMCH which would possibly further increase the chances of other legitimate third-party users being on a level playing field with the IGOs.

So just - that's just food for thought but I'm sure that you will discuss this with your group as we move along.

I have Alan next and thanks for your patience Alan.

Alan Greenberg: Thank you. With regard to the trademark plus 50 I'm assuming it's not particularly relevant anyway because the IGOs we're talking about are not eligible for the UDRP which is one of the other issues we're supposed to be addressing someday.

But I think ALAC would object to be included in the plus 50 anyway even conceptually what has been proposed and is not yet a fact yet but what has been proposed as trademarks plus 50. And these are not trademarks. So I hope that we're not going to try to go that direction.

I must say that I having been involved in outsourcing agreements before I have some great trepidation about all these new features we're adding to the trademark clearinghouse which are not in the current contract with ICANN and were going to have to be negotiated as add-ons.

So careful what we ask for. It may be, have some interesting results. Thank you.

Thomas Rickert: Well Alan and maybe others can chime in but it is my understanding that for being allowed to the 50 plus you would need to have a successful UDRP case isn't that correct?

Alan Greenberg: UDRP or court case.

Thomas Rickert: Yes but...

Alan Greenberg: And IGOs which may happen to have a trademark on their name. And there maybe some of those - might well how to use the UDRP before. I don't know.

But I think conceptually at large would probably have a problem with it just as NCSG does.

Thomas Rickert: But let's think that through. If an IGO actually has a trademark or has won a UDRP or a court case on the basis of the trademark they could have that trade - TCMH entry anyway...

Alan Greenberg: If they have entered it based on the trademark...

Thomas Rickert: Yes.

Alan Greenberg: ..which is completely out of our scope yes certainly assuming that proposal goes forward.

Thomas Rickert: Yes, what I'm trying to find out -- and I should've said that upfront -- is we can certainly as a group refine the recommendation that has been proposed by the registry saying that TMCH can be used and then specify that the use of the TMCH is limited to sunrise and trademark things. And we can also say explicitly that the 50 plus is not applicable.

But if this were just a theoretical and not of practical relevance we might not even need that disclaimer if the chances for that be nil.

But maybe you can all think about that and (unintelligible).

Alan Greenberg: Yes in theory. But we're - we all worry about thin edges of swords and what the next step is. So I think there would be some reluctance among my group anyway to including the 50 plus.

Thomas Rickert: And thanks Alan. And before I give the floor to Greg I'd like to ask Chuck whether, you know, though we were not in the motion phase whether they would accept the clarification that TMCH used does not include the 50 plus

would be considered a friendly amendment to those recommendations. Greg please.

Greg Shatan: Now personally I would be opposed to creating kind of the second class citizenship if we use those TMCH. You would think that the registrations should, you know, if we're putting names and acronyms into the TMCH that they should enjoy all of the features of the TMCH.

Frankly I'm not sure which way IPC would come out on this. It hasn't been discussed. I can, you know, imagine equally, you know, taking both either side of the coin.

But personally I think that, you know, the fact that the organizations, you know, haven't sought trademark protection for a variety of, you know, reasons shouldn't be - shouldn't limit their ability to use the TMCH. Thanks.

Thomas Rickert: Thanks Greg. I guess that your comment about second class citizenship with the TMCH is good food for thought for our discussion.

I guess the two positions we have to balance are an adequate protection level and at the other - on the other hand avoid over (breaths).

And since acronyms at times are so generic in nature allowing 50 variations thereof to be taken out of the game for legitimate third-party users might be an issue for some in this group.

Greg Shatan: Well remember those 50 variations would only occur if they're able to fight and win a legal battle. So they'd be far from generic. They would be have to be source identifying in order to get even a single variation. Thank you.

Thomas Rickert: Well that would certainly depend on to what level you waive the requirements for entry, you know, if we allow entry for acronyms without the - without having a trademark then, you know, we have lowered the entry hurdle.

And that might also be applicable at least in the view of some for the acronym names in the 50 plus rule. But, you know, that's nothing for us to discuss now but your point is well noted. Chuck please?

Chuck Gomes: Thanks Thomas. And I certainly welcome David Maher to respond to your question as well.

I think we're open to discuss variations. We would obviously have to go back to our group to see whether particular variations are acceptable.

But some of the things that are being talked about certainly sound reasonable from my personal point of view and we're willing to do that.

I think in this particular area of acronyms is one that makes a lot of sense for us to explore further.

But there are a couple things why I originally raised my hand, I got kicked out of Adobe. That's why it went down.

But the idea of using the acronyms and the claims service I'm not sure what value that has. And maybe somebody could clarify for me because if for example an IGO acronym is registered and the IGO gets a notice that it's been registered what difference does it make if they're - they don't have any trademark rights or anything like that? I'm not sure but maybe somebody can explain that to me.

I'm not opposed to exploiting that further but I just want to throw that out. We're obviously running out of time so we may not have time to discuss that today.

But more importantly I want to talk about using the (Rcept) process as Avri suggested both today and on the list.

You need to understand that the (Rcept) processes is not a trivial process. It costs the registry just to go through the process in terms of hours spent applying and responding to ICANN staff, et cetera.

And now under the new gTLD agreement ICANN will charge us for submitting a registry service request.

So for a \$7 or \$8 registration or whatever the fee may be in a given TLD spending several hundred, several thousand dollars to do it doesn't make much business sense.

So I throw that out in terms of using the (Rcept) process to deal with an exception on a specific TLD or not TLD. A specific string like an acronym is not - doesn't make any business sense.

So I just want to point that out in terms of just falling back on a registry service proposal. It's not a no cost process. In fact it's a very expensive process. Thanks.

Thomas Rickert: Thanks Chuck. David ?

Oh David is gone. David please go ahead.

David Maher: Thanks (Tom).

((Crosstalk))

David Maher: I've got nothing to add to what Chuck said.

David Roache-Turner: Go ahead David .

Thomas Rickert: David and now the other David, David Roache-Turner please.

David Roache-Turner: Thanks just this is David Roache-Turner. I just popped my comment into the chat box so I won't repeat it again. If anybody wants to see it it's there.

Thomas Rickert: Thanks David . And last is Alan.

Alan Greenberg: No I put my hand down.

Thomas Rickert: Okay.

Alan Greenberg: I was going to point out that you used the expression we waived the entry requirements for the trademark clearinghouse. We're not waving anything. We're replacing having avail a trademark with being on an IGO list provided by the GAC or something like that.

So, you know, I don't like the term waive because it implies someone's getting entry into the clearing house without criteria or without meeting some great criteria. We've just added an additional criteria.

Thomas Rickert: Thanks Alan, that's very helpful. We have four minutes to the hour left. Unfortunately we can't touch upon the remaining points on the agenda which is unfortunate but I wanted to allow the conversation to go on because I guess that, you know, this recommendation by a proposal by the registries has gotten some traction. And I think that we have made some good progress during this call.

And we will continue to discuss this as well as the other points during next week's call.

I have to apologize upfront I won't be able to participate in next week's call which is why I'm now asking for volunteers from the group who could take over my role for the next call.

So if there's no instant reaction maybe you can think about it and I would be very thankful if somebody from the group could actually take over the lead during the next call.

I guess, you know, we will pretty much discuss or continue our conversation where we stopped today, try to further work on a compromise position.

I would like to encourage all of you to reach out to your respective groups and see what level of support if any there is for the proposal that's currently on the table.

And if you do have concerns with respect to these recommendations please don't just say no. Please come up with alternative language or even an alternative concept.

I mean if that's what I'd like to avoid is us going back and coming back with exactly the positions that have been exchanged early on. So I guess that is not what I'm looking for. But if you have other proposals, other compromise proposals that can be put on the table that would be most welcome.

So with this I would like to let you go. I thank all of you for your very active participation and valuable contributions.

David and Chuck thank you so much for putting the registry's recommendation on the table. I think it's excellent to have something on paper or on the screen to discuss and further work on.

Thank you so much and talk to you in two weeks' time. Bye-bye.

Man: Thank you.

Man: Thanks Tom.

END