

**ICANN  
Transcription  
IGO-INGO Protections Policy Development Process (PDP) Working Group  
Wednesday 08 May 2013 at 16:00 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 08 May 2013 at 16:00 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-20130508-en.mp3>

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

Attendees:

Lanre Ajayi – NCA  
Jim Bikoff – IPC/IOC David Heasley - IOC  
Avri Doria – NCSG  
Elizabeth Finberg - RySG  
Chuck Gomes – RySG  
Alan Greenberg – ALAC  
Stephane Hankins - NCSG  
David Maher - RySG  
Kiran Malancharuvil - IPC/IOC  
Christopher Rassi - Red Cross  
Thomas Rickert – NCA –Working group chair  
Claudia MacMaster Tamarit – ISO  
David Roache-Turner - WIPO  
Mason Cole - GNSO Council vice chair – RrSG  
Evan Leibovitch – ALAC  
Judd Laufer – IOC replacing Kiran Malancharuvil  
Wolfgang Kleinwächter – NCSG  
Wilson Abigaba – NCSG  
Greg Shatan – NCA  
Debra Hughes - NCSG

Apologies:

Mary Wong - NCUC  
Osvaldo Novoa – ISPCP  
Guilaine Fournet – (IEC)

ICANN Staff:

Berry Cobb  
Brian Peck  
Marika Konings  
Glen de saint Géry

Glen DeSaintgery: Thank you very much. Good morning, good afternoon, good evening everyone. This is the IGO call on the 8th of May.

And on the call we have Wolfgang Kleinwachter, Stephane Hankins, Thomas Rickert, and Ricardo Guilherme

On the Adobe connect where Christopher Rassi, (Jud Roypar), Stephane Hankins, Avri Doria, Chuck Gomes, Claudia MacMaster Tamarit, Alan Greenberg, Elizabeth Finberg, David Maher.

And for staff we have Marika Konings, Berry Cobb and myself, Glen DeSaintgery. Have I left off anybody?

We have also apologies from Mary Wong. And we have not been able to contact (unintelligible) who asked for a dialogue. She's not on stream. I think that's all. Thank you very much Thomas and over to you.

Thomas Rickert: Thank you very much Glen and welcome everybody. My name is Thomas Rickert. And I'm the Chair of this working group.

And as usual I would like to ask you whether there are any statements - any updates to the statements of interest?

Hearing and reading none we can move to the second agenda item and that is the continuation of our discussion on exact match full names.

As you well know we have different aspects of protection to discuss. And these are the full names protections and the acronym protections.

And we thought that during this call we should deal with them one after the other. So I guess you will recall that Berry was kind enough to send a notification to our mailing list and pointing your attention to the latest version

of the draft registry agreement which also includes some language on the reserve names i.e. the IOC, RCRC and IGO designations.

And since I do not anticipate or expect that all of you have read everything in total I would like to ask Berry to give us a very brief overview on what can be found in these - in this latest draft of the agreement.

Certainly bearing in mind that we - that it is a draft that's currently out for public comment and that the language in there is not necessarily the language that is going to be in the final version of the agreement.

So Berry maybe you could take two minutes and explain to the group how protections are granted in the language of the registry accreditation agreement?

Berry Cobb: Thank you Thomas. This is Berry Cobb with staff. I'd just like to start off by saying as Thomas pointed out that this is only the proposed registry agreement. And certainly our remit here in this working group is not bound by anything within this agreement.

The main reason I drew attention to this for the working group is A just to inform people that this is what's out there and that the public comment period is available for not only working group participants but all stakeholders to respond to what's listed in this proposed registry agreement.

The main reason I kind of drew attention to it today for the purposes of our agenda is just to point out that, you know, there is a separation based on the proposed protections that we're discussing.

So first and foremost that the working group came to consensus on a recommendation that IOC and RCRC names are protected at the top level versus the second level. This is where the distinction will start to come to play.

I know in the past that we've discussed about what exactly is the reserve names list, et cetera that it's not necessarily important that we denote any differences amongst reserve list or not.

But it should be understood by the working group that typically if there is a proposal on the table to protect these identifiers at the top level those protections will actually occur in the applicant guidebook itself specifically pointing out to section 2.2.1.2.3 which is titled as ineligible for delegation.

So if the working group were to come to consensus on protections at the top level it's most likely where these identifiers would reside were those protections at the top level whereas in terms of many protections at the second level for the identifiers that we come up with that are defined and within our scope most likely those protections would occur within specification five of the registry agreement.

Again the language that's proposed here is still in draft form. And again I will reiterate that nothing that is listed here has any bearing on our deliberations and any possible outcomes from the policy development process.

And the only other thing that I'd like to point out I would say that I do have questions in regards to some of the details around specification five that I'm seeking answers for.

And as soon as I get some answers I'll be glad to brief the working group on how that can assist in our deliberations as well as I'd also like to point out that in terms of any top level protections that may be recommended as it should be noted that we'd have to consider is there still any reason to have an exception process for top level reservations and what would that look like?

Certainly with top level reservations it would have to follow potentially a policy process to have a particular identifier removed from the applicant guidebook for future rounds.

And then lastly in terms of any second level protection there are two on the table. One is a possible exception process that's used for country code, and territory name, and which is one of my questions that I had out to be addressed is does that follow the RSEP process or not? And what are the details of that process?

And if we were to include any kind of an exception process at the second level would we be able to utilize that process for country code, and territory name, or would it in fact have to go on the RSEP.

And unfortunately I don't have answers to those questions right now but as our recommendations start to evolve through our deliberations and as soon as I get some more concrete answers I'll brief the working group.

Outside of that I do invite all members to take a strong look at the proposed registry agreement especially specification five.

And certainly invite you to post any comments to the public comment form that you have about any suggestions for changes for issues with clarification and the language and the like. That's all I have for now. Thank you, Tom.

Thomas Rickert: Thank you so much Berry. I guess that's very helpful. Does anybody from the working group have questions for Berry on this?

Berry mentioned that he has asked questions for legal. And certainly if you have questions that we can add to the list in order to get a better understanding of what's currently proposed then please do let us know.

And I'm sure that Berry will communicate that gladly to legal. And hopefully we'll get an answer to those questions as well.

I guess that it's worthwhile reiterating what Berry has also highlighted and that is that nothing that's in the draft registry agreement is binding for us.

However I guess it might be meaningful for the group to look at what's currently being proposed. And nothing keeps us away from stealing ideas from what's on the table already.

I guess that there are a couple of points in the current wording which are interesting. One of which is that both for the IOC, RCRC protections as well as the IGO protections there is a possibility or an opening clause which allows for changes to the list that can be communicated to the registry operators for the registry operators to base the protection on.

And so I guess that, you know, it might be worthwhile taking a close look at that process. It is obviously a reserve names list although the reserve names can either be I guess completely excluded from registration if I'm not mistaken or registered for the registry operator. But it can't be used or it mustn't be made available through the DNS for resolution.

And I guess that the question for us is whether that's something that we can borrow from. Certainly what we don't find in specification five is an exemption procedure.

So as Berry said it's yet unclear what the process for exemptions would be. But I guess in the absence of an answer that would answer all our questions surrounding that we would still need to think of a potential exemption process at least that was the wish of the members of the working group.

So do you have any comments on that? I see Ricardo please.

Ricardo Guilherme: Thanks Thomas and hi everyone. I'm - my apologies - can you hear me?

Thomas Rickert: Yes. We can hear you.

Ricardo Guilherme: Okay. No my apologies for not being able to participate in the previous calls. We had three weeks of our council meetings here at that UPU. They're like nonstop full day sessions. So again I have to apologize for not being able to participate.

Just on - to start off - and I was listening to Berry's remarks on the first - the second point of the agenda. And my first question I would have perhaps three questions or comments to make.

The first one would be regarding the reference here to RSEP. The UPU has already made use of an RSEP process for a proposed change and its sponsorship agreement with ICANN for the .post project.

And as far as I can tell from the RSEP - the RSEPs rules and the related procedures we're talking here about requests for new registry services mainly.

And if there is already a process that is inscribed in the standard registry agreement concerning for instance the protection of IGO names and acronyms.

I would not understand why an RSEP is necessary if this provision is already contained in a standard agreement.

It's simply referring to a process that would be for example defined by the GAC or approved by the board. Et cetera but the process would be in place.

So I would - I don't understand why an RSEP is being considered at this point. Perhaps I have missed some part of the discussions in the last weeks but this is a question that I would ask - I would pose to Berry.

The second point also I see the agenda referring to exact match of full names. And again the both the principles and the rules of international law that we have in place for IGOs as well as the discussions we had with the GAC and other ICANN instances they never made that difference between a full name protection or an acronym production.

We're talking about both protection - both kinds of protections because they are the protections that are inscribed in international law and domestic law as well.

And finally I would still raise some concern even though of course it doesn't refer to my organization but I see again people lumping together the RC and IOC cases even though they are fundamentally different. And there is absolutely no international protection for the IOC case.

So I still - I fail to understand why there is this segregation between the IGO case which is fundamentally based on international and domestic statutes on one hand and then you put together cases which have different legal basis for protection.

So just as three comments or questions to start off the discussion. Thanks.

Thomas Rickert: Thanks so much Guilherme. Berry would you like to kick off by answering the first question?

Berry Cobb: Hi Thomas. Yes this is Berry. I really only have a response to Ricardo's first question. And I guess I'd say that the RSEPs not necessarily anything that the working group is considering at this time.



It just should be understood that if these identifiers are placed on a reserve names list, and if any of the organization seeking protection ever chose to use those names, some sort of process is required to have that name lifted from that particular registry agreement if they chose to apply at the second level or some other process to have it removed from the applicant guidebook if they chose to apply at the top level.

And unfortunately I don't have those answers yet but I think that it would help in our deliberations in coming up with the final recommendations as to what we would consider and how that it potentially would be implemented.

Again the point being made here is the reserve names list is typically meant for names to be locked down and never used and so that's something that internally that I need to check with before I can provide better details.

The only reason RSEP is mentioned is because it is a defined process for registries. And you're correct that it's typically used for new services. But again I need to seek more clarification in that regard.

As for your second and third questions I don't necessarily have a response for it but definitely opening up to the working group. Thank you.

Thomas Rickert: Thanks Berry. Ricardo by the way I would like to apologize for not addressing you correctly but...

Ricardo Guilherme: That's fine (unintelligible).

Thomas Rickert: ...does this answer your question?

Ricardo Guilherme: Yes well the first - yes at least I mean it gives me further elements to reflect upon. Thanks to Berry. Yes.

Thomas Rickert: Okay great. Now would anybody from the group like to respond to the second and third question raised by Ricardo?

Jim Bikoff: Thomas?

Thomas Rickert: Yes.

Jim Bikoff: Jim Bikoff.

Thomas Rickert: Jim please.

Jim Bikoff: I would just like to respond to the third question. I think that the GAC and the ICANN board have well the board has at least in the registry agreement proposal accepted the GAC advice IOC and RFC.

IOC and RFC have been in this battle for quite a while trying to get the protections. The GAC (unintelligible) that we support.

And I think since the GAC is supporting IGO protection also I think, you know, it's really unseemly for, you know, Ricardo to criticize protections that are given to an association that has multilateral protection in national jurisdictions around the world.

Therefore I'm not saying anything against IGO protections. I fully support them. And I would hope that the IGOs would support protections for other groups that have reasons for needing protection.

Thomas Rickert: Thanks Jim. I have Alan next.

Alan Greenberg: Sorry I thought Chuck was going to be next.

Thomas Rickert: Oh excuse me I...

Alan Greenberg: He lowered his hand so I'll go quickly. They're not long. And in terms of the IOC and Red Cross together the ALAC and At-Large has repeatedly said that they should be dealt with differently.

If they end up with the same set of rules associated with them so be it but we shouldn't be presuming that they are the same as we go through the process. That's number one.

Number two to state that IGO - IGO acronyms are all protected universally I think simply denies reality.

The board has given a number of examples where IGO acronyms are used and used on a regular basis and sometimes with much more visibility than the IGO that uses the same acronyms.

And that's not denying that those acronyms are used by the IGO but to say that there are exclusive uses and in fact protected by national laws I think is denying reality. Thank you.

Thomas Rickert: Thanks Alan. And before I move to Ricardo again I would like to add that in terms of your question number two the working group has asked ICANN general - ICANN's General Counsel for advice.

And we have actually received a response whereby no universal protection or no protection as such would be in place that would require ICANN or registrars to not allow for these names to be delegated.

In addition to that as you will note - know from our past discussions the scope of in particular a typical fixture of the Paris convention is not uncontroversial.

So it is seen by some as a framework for recognition by national governments but not as a basis necessarily for granting or for offering protection for the names and acronyms.

So in that sense I guess that it is only wise for this group to separate the discussion and Ricardo as well as David I know that you wouldn't agree with this but I guess slicing the issue makes it easier for the group to reach a potential consensus positions on that.

And as you will have seen from our previous discussions the level of support or the lack of support differs quite substantially from full name protection to the acronym protection.

And in the light of that I would also like to respond to your first - to your third question. We are trying to develop consensus positions.

And I have made very clear on a couple of occasions that we should separately discuss the criteria and protections for all four categories of organizations that we're looking at.

Now it has shown that parts of the working group or parts of the community that are represented in this working group do think that a similar protection level for IOC and RCRC can be granted which is why you find them both in the same sentences quite often.

But nonetheless should you or should anybody else in this group wish to establish different criteria for the IOC and the RCRC and I do know that Alan for example has made that point a couple of times in the past then please do make yourself heard.

I guess that you will have primarily seen IOC and RCRC in the same recommendations or in the same sentences by those who would like to treat them in a comparable or a similar manner.

Ricardo I hope that this answers your questions but you have raised your hand again. So please go ahead.

Ricardo Guilherme: Thanks again Thomas. No just to perhaps clarify my - the meaning of my intervention particularly on point number three.

Of course I'm not here to challenge the interest or the legitimacy of IOC for a specific protection that they deem fit.

And - but my concern is really about following a consistent legal principle. And I have heard for quite a long time already that the protections accorded to RC and IOC cases were strictly because they received protection under both international law and domestic statutes.

And this is simply not true in the case of the IOC. So if we are to establish policy on protection of certain acronyms and names I think we have to apply that policy consistently.

And that's why when we initiated the discussion under the IGO, INGO group working group we emphasized from the very beginning that this policy should not be based on perhaps past political decisions taken by some stakeholders or based on flawed legal analysis that simply do not reflect reality.

And speaking of reality, just too quickly respond to Alan's intervention. Of course I'm not talking about what's happening today in the DNS.

We already have situations of both abuses and some of few legitimate uses of the names and acronyms that may be applicable or belong to IGOs.

What I was simply referring to was that when we look at the international as well as domestic statutes they do not make any such difference between full names and acronyms.

So regardless of what we have in the DNS right now which is of course perhaps not an ideal situation in our view we have to refer to the rules and the principles that are in place.

And finally in regard to the analysis performed by ICANN legal on the question to be very honest or frank it's just like asking whether a convention from 1800 would refer to computers or not.

I mean the question itself wouldn't really lead to a very different answer. So just to clarify again this point that I don't have anything against IOC in particular or I don't want to challenge any possible legitimate interest that they may have.

But I'm talking here about a consistency of principle. So please show anyone show me the international law legal basis for protection of that name. If there is one then we can talk. Thank you.

Jim Bikoff: Thomas?

Thomas Rickert: Jim please.

Jim Bikoff: Yes. I just want to respond. I think we're getting - I'm not going to spend a lot of time on this. The GAC has already made his position clear. It's not just based on international treaties it's also based on national legislation in multiple countries.

That's the GAC position. It's always been the GAC position. And the ICANN Board has adopted that position in the section specification five.

I'm not going to try to argue any further on that. If Ricardo has a problem he should talk to the GAC because that's where this thing came from and it's been supported. Thank you.

Thomas Rickert: Thanks so much. And I would like to end the discussion at least on the scope of the General Counsel response or the legal protections by referring you to the previous discussions.

I guess we have gone through these topics at length. And as Chair I have not seen any legal basis strong enough for granting protection for IGOs both for names and acronyms as such because as we discussed early on if such protection were in place we would not that much talk about policy but it would be a matter for ICANN compliance.

But apart from that it is our role and responsibility to look at the policy implications of these protections.

And as we've seen since particularly the Beijing meeting or a couple of days before we have seen some movement in that area.

We've seen some, you know, some willingness to compromise from certain parts of this working group and we're trying to build on that.

And you are - you will remember that we started the latest discussions on the basis of the proposal made by the registry stakeholder group.

And I guess we should maybe look back at that and reopen the discussion on factors that we haven't yet taken into account when talking about exact match name protections.

I have seen Avri stating that she is not in favor of adding certain designations to the reserve names list. I understand that the registries would be open to that suggestion.

I've read from (Oswaldo) that the ISPs might not have might not have a problem with these protections.

So I would like to hear from you because not all of you have responded on the mailing list whether there are more points to add or positions to be taken when it comes to the exact match protections at the top level.

Greg Shatan: Thomas this is Greg Shatan. Could I get in the queue please?

Thomas Rickert: You are next in the queue. Please go ahead.

Greg Shatan: Okay. I would say that while you can't represent a formal position of the ICC yet at least, you know, we would be in favor of putting the acronyms in the reserve name list.

Thomas Rickert: The acronyms you're saying. What about the exact match names?

Greg Shatan: Oh and of course the exact match names. I - that almost goes without saying but I should go - I should say it absolutely.

Thomas Rickert: Okay.

Greg Shatan: The names and acronyms. And I agree with Ricardo that protection on those is, you know, similar if not identical.

Thomas Rickert: But, you know, so thank you for that. Are there, you know, apart from the concerns already voiced by Avri are there others in the working group who have an issue with protecting the exact match names at the top and second level? Alan?

Alan Greenberg: I'll state again what I've stated before. ALAC seems - sees no reason to have any protections at the top level that there should be objection processes which will cover it adequately without having to mess up the whole process and applicant guidebook with long lists of names and especially acronyms.



That there should be an objection process which will cover the use by the organizations or in fact by competing organizations if they can make the case that there will not be an issue of user confusion in the end. Thank you.

Thomas Rickert: Thanks Alan. Certainly your point has already been noted earlier. Nonetheless I'd like to ask you a follow up question.

And that is do you think that protections at the top level are just unnecessary in your view because mechanisms such as objections or GAC advice would also provide for an adequate level of protection for the organizations while saving us the trouble of developing policy for exemptions and stuff like that or would you even be against granting these protections for the top level? Alan? Alan, are you still with us?

((Crosstalk))

Berry Cobb: This is Berry. I think you...

Man: He was cut off.

Man: Yes.

Thomas Rickert: Okay. So I'll get back to Alan later on. So let's hear Chuck now.

Chuck Gomes: Thanks Tom this is Chuck. This question is probably for Alan so I don't know if he can hear it or not.

But if we take that position to its extreme that you don't need protections at the top level because they are objection procedures then I assume that two character country codes we don't need to have a block of those at the top level because they could file an objection.

I guess my question is, is that the line of reasoning here because - and any other restrictions of the top level all going to be handled via the objection process rather than making it clear that they're not - they cannot be applied for in a -- well it's not exactly a reserve name list for top level I don't think -- but that's not - I'm really asking whether the ALAC position is it goes that far or is there somewhere where they draw a line?

Thomas Rickert: Alan I write in the chat that you can hear. Can you talk?

Alan Greenberg: Yes. I'm back now. I couldn't hear the first part of Chuck's question because the Verizon operator insisted on talking to me first.

I think...

Thomas Rickert: So Chuck would you be kind enough to repeat?

Alan Greenberg: Let me try to answer the question and if I miss some of the subtle parts of it including your question you were asking originally which I also missed part of let me try.

The ALAC believes -- and I believe -- that there is no need for protections at the top level. That in the relatively unusual case that someone other than the IGO in question applies for that top level the objection process should be more than adequate -- and I'm talking about either the existing objection processes or a new one we craft in the future -- to ensure that it not be used.

On the other had if there is an acronym and if I'm - if memory is correct there is an ISO acronym on the IGO list something about a sugar something or another if...

Man: Yes International Sugar Organization.

Alan Greenberg: Okay. If the ISO the one represented on this group by a participant and the one in fact that we reference within the applicant guidebook dozens of times in respect to country code lists chose to apply for ISO and certified they're going to be using it in regard to the International Standards Organization I would think that would, you know, there would not be grounds for the IGO ISO to validly object to that.

So there are only going to be a small number of cases where someone other than the IGO is going to apply. And they would have to show cause why it will not do harm to the IGO.

I think that's more than adequate than putting long lists in and having our obscure ways of having to have the IGO actually use the name should it choose to without blocking other legitimate uses at the top level.

I'm - so not hearing all of Thomas's or Chuck's question I'm not sure if that answered it or not. Would the ALAC strenuously object to putting them in as reserved and then having a complex process to make exceptions for it?

Well we're probably not going to go to the wall over that one but it sounds rather foolish for us to do that to cover edge cases which could be covered other ways. Thank you.

Thomas Rickert: Chuck does this answer your question?

Chuck Gomes: Not totally Thomas. Thanks and thanks Alan.

Alan Greenberg: Okay...

Chuck Gomes: So...

Alan Greenberg: ...if you can repeat the part I didn't answer.

Chuck Gomes: What you may not have heard Alan is okay in the current round that's still ongoing of course there were certain categories of strings that were not allowed to be applied for like two character in asking because of the confusion with regard to two letter country codes from the ISO list that you just referred to.

Can those be handled via an objection process too? Do we not even need that restriction? Is that the - do you take the - is the ALAC position does it go that far?

Alan Greenberg: The ALAC has not discussed that issue at all. And I would hazard I could hazard my own opinion and might be echoed by the ALAC it might not.

That's a long established process - a long established restriction within the DNS. And I don't think we would advocate changing that one.

Chuck Gomes: So what you're saying then with regard to specific organizational names or acronyms if we went that far you don't need a blocking list at the top level that it could be handled through objections.

So on what basis would the objections be made? Certainly under - it would be under the rights protections mechanisms for example not violating someone else's rights. Is that what you're saying?

Alan Greenberg: No. I - I've said repeatedly that I have not tried to analyze the existing protections to - with regard to whether they would be the exact right set of mechanisms we need.

Perhaps there is a fifth objection process that is uniquely, you know, given to this kind of concept of objecting to a first level name because of IGO similarity.

Yes I'm giving you an extreme case. So I'm not claiming that the existing rights mechanisms and the existing objection mechanisms are sufficient.

I'm saying that if we choose to go the route that I am - I and ALAC has suggested we could surely craft one that would meet the needs.

And as I said simply saying I have the rights to use the name is not sufficient. The bottom line in this whole process is to make sure we're presenting to Internet end users a situation where they will not be subject to confusion (unheedingly).

Chuck Gomes: So thanks.

Alan Greenberg: And I believe such an objection process could be crafted to allow reasonable use and restrict unreasonable use.

Chuck Gomes: So I get all of that now okay? With regards - so the IGOs or whatever group of organizations that would have some rights to file an objection whether it be a new one or an existing one they then would be involved with having to go to the expense of objecting to a string if their string was applied for. Is that correct?

Alan Greenberg: I believe that would be a reasonable thing to do. And I believe the onus would be on the applicant to demonstrate that there will not be confusion.

Chuck Gomes: Okay. Thank you.

Thomas Rickert: Thanks Chuck and Alan. I have Wolfgang next.

Wolfgang Kleinwachter: Yes thank you. Some elements have already been clarified now in the exchange between Alan and Chuck.

But, you know, what I want to add is probably it's too premature to make any final policy decisions because as it was already said now we have this long list of GAC advice, and, you know, and objections, and, you know, other mechanisms which has not yet been tested whether they produce results which are accepted by everybody.

But before introducing additional mechanisms my recommendation would be we need to analyze very carefully what happens with the 300 or 500 plus objections, and advisers, and, you know, what have you and see whether this procedure which is forcing in the applicant guidebook.

It's sufficient enough to settle all the issues. That means probably we create a mechanism which is not needed.

And as soon as we discover that, you know, some of the proposed procedures, you know, create, you know, per se or create situations where the controversies cannot be bridged.

Then on top of this we can consider, you know, to additional protection mechanisms. But so far I think we should first try to analyze very carefully, you know, how the existing protection mechanisms are working.

And after that then we should consider more in detail, you know, what additional protection mechanisms we need. Thank you.

Thomas Rickert: Thank you Wolfgang. I have a follow up question for you and that is would you like to have that discussed during the evaluation phase because I guess even for that we wouldn't see how the current mechanisms would be working in the second round?

So I'm a little unclear as to the process that you're envisioning or do you want us to define something which would be read in place in case the problems occur?

Wolfgang Kleinwachter: Yes probably if it goes to the first level that we should just have like a moratorium at the moment because, you know, with a let's wait and see what will happen with all the objections, advisers and aggressions for clarification and things like that.

So - and then we can see whether there are remaining conflicts which cannot be settled with the existing mechanisms.

And, you know, so far there is no second round announce that means we just dealing with the 109 1900 individual proposals, you know, a lot of these proposals are uncontroversial. And then let's build a policy on the practical experiences we are doing now with the evaluation.

Thomas Rickert: Thank you very much Wolfgang. I have Avri next.

Avri Doria: Okay thank you Avri Doria speaking. I wanted to address a couple of the issues that Chuck and Alan discussed.

One of them is -- and I think I agree with At-Large ALAC on this -- is that what's being upheld here is the general GNSO principle that issues are dealt with by objections.

Now whether the current set of objections works perfectly or not certainly I think as Alan said they can be adjusted over time.

But the essential principle was and this was the policy recommendation from the GNSO is that you handle these things through objection.

Now the notions of objections costing an arm and a leg those were things that weren't determined by GNSO. And certainly those are things that need to be looked at.

Should also be remembered though that there's an independent - objector mechanism that would have been available and would I assume continue to be available to any IGO, INGO, that needed this protection at the top level.

There was also the At-Large mechanism's for filing an objection for communities that may need to be, you know, edited or tweaked.

Both ALAC and GAC were able to file objections, advice, early warning in a number of mechanisms for any appellant who came to them saying we need your help in filing.

And then as a last leg to that -- and I know there's not much agreement for it and it's not the current topic -- I do believe that there would be an obligation on the part of ICANN, and perhaps the dispute resolution mechanisms, or some way for funding for those things were it to be necessary.

And ICANN has started to develop such funding mechanisms. And I would think that this would be a candidate for that kind of support if it got down to the fact that one of these organizations met a certain set of criteria.

We have ways of doing criteria with grading and thresholds were to meet a set criteria and were to get an objection funded just one.

But - so I think that we can go to that level on it. But come back to the notion that the primary policy advice that I'm advocating we maintain is the GNSO policy advice that issues like this are dealt with by objections and not by lists. Thank you.

Thomas Rickert: Thanks Avri. And before I move to Alan I'd like to remind you that when we started our discussion we've already discussed part of that.



And I would very much like to avoid that we move in circles. I guess that for this specific subject we now have two views the first of which is include the names on whatever lists with whatever exemption process.

And the other view is that no such thing is needed. And that we would have or that there would be sufficient protection by means of advice or objections. And if need be the objections could be tweaked so that they - the protections would be strong enough.

To be quite honest I do not, you know, from a chair perspective I'm happy with both ways. I just guess that we would need some common view on which route to pursue.

I guess that it is right to say that the practical relevance of protections at the top level might be relatively low because the risk for these organizations names to be violated by a third party application are quite slim.

At the same time we have the cost issue. And Avri I'm very glad for you to having brought up the idea of the Applicant Support Program both by email as well as on this call which is a new aspect of, you know, or part of the protection mechanism that we could think of because when we did the - when we posted the question on whether there is support for a fee waiver a fee reduction the responses were not too favorable.

So I would like to hear it particularly from the organization seeking protections whether they would be willing to buy into a compromise whereby we do not list the names but whereby we, you know, if need be discussed potential tweaks to the existing objection processes.

And maybe the idea of opening up the applicant support program for financial support for these exercises.

So that's food for thought. But I guess that we need to make a determination now more or less whether we want to take the route of list protection at the top level or whether we can do it with alternative means bearing in mind that both ALAC as well as NCUC have now stated that they would be - that they would not be support of let me put it that way for list based protection.

So I guess the chances for consensus might be higher if we actually found an alternative way to list based protections. Alan?

Alan Greenberg: Thank you. A couple of points to respond to Wolfgang I wasn't saying we need to craft a new protection right now.

I do point out though that it's not clear that we're going to be able to evaluate whether the existing protections would work in a scenario that has never been tested because this particular application of an objection has not been exercised this time.

So - but there's going to be plenty of time between now and then. And I don't think there's a need for us to try to craft the protection and, you know, put it in concrete right now.

In terms of the fee waivers a number of things. ICANN has shown willingness several - in several ways through the independent objector, through ALAC, through that GAC, the Applicant Support Program to set aside money for reasonable causes.

I would point out that setting the fee level is not something which is subject to consensus policy or at least hasn't in the past.

And that's essentially an administrative decision. So whether there is strong support or not for fee waivers for objections of this sort within this group to be blunt is sort of mute.

ICANN staff and board have overruled groups like this many times already in both directions. So I don't think that should be one of the overall criteria.

I think it is reasonable if we do not grant special protection to these names at the first level that we do specify that the objection process should be without cause to the organization.

We don't want to disadvantage them because of it. We just want to keep the bureaucracy a lot simpler. Thank you.

Thomas Rickert: Thanks Alan. Anybody else want to speak to that? I guess what we need to hear from the organizations in question is whether we can work on the basis of objection processes rather than a list based approach.

Jim Bikoff: Thomas?

Thomas Rickert: And I'm - maybe you can speak up but...

Jim Bikoff: This is Jim Bikoff.

Thomas Rickert: Jim please.

Jim Bikoff: Yes, no I was just going to say that from our perspective I think we stand behind the GAC proposal as refined by the board in the proposed registry agreements. We prefer that approach.

Thomas Rickert: Thank you. David or Ricardo or Claudia would you like to speak to this?

David Maher: Yes Thomas is David. Thanks very much. From an IGO perspective we would support the moving forward on the basis of the list and the inclusion of that list in the registry agreement.

The production of the list concerning IGO names and acronyms was prepared after a very, very considerable investment of time, and effort, and work by many, many lawyers and many long hours in consultation with the GAC to provide this list which as Ricardo has mentioned in some of his submissions is I think fairly reasonable in length. It's less than 200.

It provides us with a known resource that we think provides useful clarity for the purposes of defining these organizations.

And we think there's every reason to make use of that list now that it's been prepared particularly now that it's been the subject of such clear GAC advice on the issue.

We think it's very useful to have a discussion about how we would go about managing the potential - potentially legitimate coexistence issues that can arise from some of the few specific examples that we've heard.

We've made some proposals about how we think that would be usefully approached. And this is a direction we think it would be helpful to say the discussion continue it to move in.

Thomas Rickert: Thanks David. However please do bear mind that both the registries and the registrars have indicated that there would not consent to acronym protection at the top level.

So, you know, if we have - if we would take your proposal for a consensus call you might not get wide support with this.

So, you know, from a chair perspective I'm certainly interested in crafting a set of recommendations that can find the broadest possible support.

And I guess that, you know, for the top level, you know, we can do the consensus call on the basis of the list based approach but then you would

potentially lose ALAC, and NCUC, and for acronyms you might even lose the registries and the registrars on top of that.

So I guess that, you know, this at least we need to bear in mind when talking about the required - requests for protections. But I - your point is taken Ricardo also chimed in asking for a list based approach.

And yes maybe I can hear one or two more working group members on this. Again talking about the top level list based approach versus objection based approach possibly with applicant support programs type of financial support.

Greg Shatan: Thomas this is Greg Shatan. Could I get into the queue?

Thomas Rickert: It's your turn. Please go ahead.

Greg Shatan: Okay. Thank you. Sorry for the background noise. I would say in general, you know, my support I can't speak for IPC as a whole at least not yet but would move for a list based approach.

And that, you know, certainly if there was - if we did end up with an objection based approach that there should be appropriate supports especially with the nature of the organizations that we're discussing especially INGOs. Thank you.

Thomas Rickert: Thanks Greg. Alan?

Alan Greenberg: Yes I just wanted to point out in my mind anyway there's some confusion when we talked - use the term list based approach.

What I would - what I'm even suggesting where I say the names not be blocked but that certain organizations have the right to object - who can object is probably based on the same list.

So list based approach is not necessarily definitive of whether we have a list of blocked names or a list of those who can object. So I ask for clarity when people are saying what they're supporting. Thank you.

Thomas Rickert: Thanks Alan. Any more views on that? I guess that we should then proceed on what I have tagged a list based approach -- and thank you Alan for your request for clarification -- meaning that the names should be blocked and that there needs to be some sort of exemption mechanism.

I think that, you know, this at least seems to be the view that most in this group support or at least do not object to.

I've seen one or two objections to it. And if you would like to chime in to take possession for one or the other please do so now otherwise I guess we would need to move on to the next question?

Okay. Now let's then talk about the acronym protections. As you will remember from the proposal made by the registries they were suggesting that the acronyms can be placed in the TMCH.

That has found some support. Then as we went on with our discussion we saw that there were some operational issues voiced.

And that also there were members of this working group that wanted to make a differentiation between the TMCH and the currently existing two types of services based on the TMCH data one of which being the sunrise service and the other one being the trademark claim service.

Now before we dive into this I would like to make one point of clarification response to Ricardo's email to the mailing list earlier today where he repeated clarifying that IGO's names and their acronyms are not trademarks and that therefore they shouldn't be treated as trademarks.

We have as a group have our discussion in the light of opening up the existing and future RMPs for designations by the IGOs and potentially other beneficiaries of the outcome of this PDP.

So in no way do we see IGO names or acronyms as trademarks. But they would be entitled to use the same processes and technical infrastructure as is used for trademark owners.

So I guess that in this slide we should have our conversation because I think the overarching question of separating trademarks from IGO names and acronyms would take us back to square one on this discussion.

So let's please try to have our discussion in the light of opening the RPMs to these other designations and talk about whether we want that and if so what the parameters of that should be. So to structure our discussion a little bit I would like to kick this off by trying to resolve the issue of, you know, the operational issues.

There were questioned raised by Mason Cole on behalf of the registrars and that these questions were how would the TMCH distribute the signed marked data SMD file to an IGO?

How would someone from the IGO provide credentials to the TMCH? And lastly how would the TMCH validate the IGO representative as an authority for the IGO? And particularly the last point has to be supported by (Oswald) and (Robert) on behalf of the ISPs.

And my question to you is whether - and I guess Mason is on the call now, whether the operational concerns have been sort of addressed by requesting the organizations in question to apply with the TMCH.

And if they were to apply and in response to our question to the list the majority of respondents have said yes they should go to the TMCH and apply.

They would go there as other trademark owners would. And therefore, you know, in this process they would name a contact person and so and so forth.

So Mason would you be willing to respond to that briefly?

Mason Cole: Yes sure. Yes thank you Thomas, Mason Cole speaking.

Yes I believe that some of the operational issues had been clarified by that procedural move. I'm sorry I have not have a chance to go back to the stakeholder group with a full consideration of all the operational issues. So there may be some others hanging out out there which want to be clear I'm not using it as an excuse to block the proposal.

I mean personally I'm in favor of it. I just - I'm performing my duty as representing the stakeholder group.

So I think I have a bit of work to do to make sure that the operational issues are cleared up on that end.

I'm not sure if that'll result in support on the registrars part. But I'm certainly willing to take it to the registrars with a recommendation that we try to achieve some compromise.

Thomas Rickert: And just to follow-up on the registrar position you would be in favor of the full names protection but you had the operational questions surrounding the acronyms.

And if these are clarified you would then - you would as a next step talk to the registrars again and see whether the operational issues are resolved.



And then if they were resolved whether the registrars would actually support the inclusion and the TMCH for acronyms is that correct?

Mason Cole: You're pretty close. The - yes, registrars support protection of fully spelled out names of IGOs.

We're opposed at this point to protection of acronyms and I think that's two-fold. One there's - there are the operational concerns. And to be, you know, fair and candid about it there are concerns in the registrar group that IGO names or IGO acronyms many of them can be applied in multiple ways. And I can provide some examples of that.

And so because of that registrars recognize that registrant customers are going to be interested in many of those acronyms for their own applications.

You know, perhaps there's a business with a same acronym that would like the opportunity to have that acronym, et cetera.

So as a fallback position the registrar's current line of thinking is no protections of acronyms.

Now what I'm discussing here with you on this call now is if the operational issues can be clarified. And that results in somewhat equal treatment on the part of the marketplace and there may be some room for compromise.

I don't want to make (assurance) on this call because I don't want to end up disappointing anyone if that's not achievable.

But what I am saying is I will be happy to take that case to the registrars because personally I'm in favor of that compromise. That doesn't mean I can achieve it but I'll certainly try.

Thomas Rickert: Thanks, that's very helpful. But if the registrar concerns are related to keeping up the possibility for other customers to register acronyms you would then belong to the camplet say of those who would say inclusion in the TMCH might be okay but only for the claim service and not for sunrise right?

Mason Cole: Well speaking in my own capacity I'm okay with claims and sunrise. But again, you know, I can't speak for the entire stakeholder group yet.

So I'm not trying to hedge your question. I just don't have the information.

Thomas Rickert: Thanks. That's still helpful and I - let me move to Alan then.

Alan Greenberg: Thank you very much. The - part of the discussion we're having right now is why I suggested a long time ago that we not say TMCH but instead a TMCH like service.

They would almost certainly be integrated operationally. But it avoids the - all the discussion of but they're not trademarks and buts. There's no registrations then but and a whole bunch of other puts.

I have a question for Mason though just for clarify. When you say registrars -- and I understand that may be different from today, your position today -- do not support protection are you saying they would not - they currently would not support even trademark clearinghouse like protection that is Sunrise on claims or they would not support a longer term permanent protection? Again I'm just asking for clarity?

Mason Cole: Right. At this stage the stakeholder group formally does not support any protection of acronyms at any level.

Alan Greenberg: Okay.

Mason Cole: Yes, yes. No acronym protection.

Okay. So even though the claims type acronym protection would only give it for 90 days and after that it's the Wild West again that's still their position today. Okay thank you.

Mason Cole: Yes.

Thomas Rickert: Thanks Alan and thanks Mason for answering the questions.

I guess for this specific topic we're now in a situation where obviously the organization's asking for protections do insist on protections for the acronyms because they see the bigger danger of abuse in the area of acronyms rather the full names.

I think though that the support for a block of acronyms inside this working group is limited. I guess that the best or the most supported approach we had so far is the inclusion in the TMCH or the ICH as we called it, the Identifier Clearing House to avoid the TMCH acronym.

And so I guess we would need to talk about some of the facets that we could attach to the TMCH like protections.

Ricardo I responded to you in the chat that, you know, it's okay for you not to repeat what you have said early on. I'm speaking to the TMCH on the mailing list.

But one of the points that you made there was that the trademark claims service is not a permanent protection.

And I guess that I would like to discuss with you whether you see the possibility of supporting a TMCH based approach if we tweak that a little bit.

You know, our recommendation for example could be to make the claims service last for more than 90 days.

So my question to all the representatives of organizations asking for protections is can you think of a variation of the TMCH based approach that you could live with and support?

Ricardo?

Ricardo Guilherme: Thanks Thomas. Yes I will - let me put it this way, I will not answer your question right now. I think we can take a further look into this.

And I also didn't want to extend myself because the message that we sent today was already long enough.

So I think it might be useful for the members of the group if they hadn't - they haven't had the time to read that message to perhaps take a closer look into it, understand the reasons why IGOs would be - would not be in favor of the so-called TMCH.

But I'll leave final judgment on your question to further study. I think we can take a look and see whether there are some alternative approaches which do not go against the principles that we have been pushing for for a long time now.

I think I'll stop right here. Maybe I don't know if David would like to add something to it but I think it would be more prudent of me to stop right here and perhaps come back with some additional reaction by email if need be. Thanks.

Thomas Rickert: Ricardo thank you for that. And I appreciate that you need to discuss this with your colleagues.

However just a word of caution, because of the dynamics of this group so far have been that support for acronym protection is very low.

So, you know, if there is no flexibility on either side to move, you know, we might end up with a situation where this group doesn't support any type of acronym protection.

And we've seen in Beijing and you will have noted the board's responses that the board even, you know, asked the GAC for further information to avoid the board being forced to refuse GAC advice.

So I guess it's, you know, it might be a good point in time for this group to come up with consensus proposals that can be taken into consideration by both the GAC as well as the board when implementing protections.

This is - certainly it's perfectly up to you to keep up your request. And I will in no way try to suppress that.

The only thing that I'm saying is that, you know, if we as a group are not able to come up with consensus which means compromised positions, you know, the recommendations might be none for acronyms.

Ricardo I'm not sure whether your hand is up again or whether it's an old hand

Ricardo Guilherme: Yes it's still up Thomas. Look I'm perfectly aware of the considerations that you just made and also of the fact that consensus has been a loser so far within this group so for a number of reason which I fully understand and I - and of course I understand the legitimacy of different reactions.

It's just that I'm not in a position right now to simply say yes that's fine. Let's use the TMCH because we already said we are not in favor of that solution as such.

But as you requested we may look into different or tweaked mechanism that both contain different support that we're talking about and that we have been defending so far and also some of the more operational concerns shown by some people.

Again we have to work on the basis of clear understanding of some concepts. And we have from the very beginning stressed the point that the IGO names and acronyms are not to be equated with trademarks.

And the whole basis upon which the TMCH has been established was for example the - even the fee based approach, the temporary approach, the sunrise approach, they all have been based on some sort of like trademark protection.

We do not for the protection of for example the UPU acronym or the UPU name we do not pay anything. We are not subject to some time limitations.

We- it is a matter of notification that is less specifically opposed by certain members. It is automatically applied and communicated to domestic jurisdictions.

So again we are not foreclosing any sort of like possible alternatives on this. I'm going to take a further look, a closer look into the possibilities and then try to get back to you on (always) some perhaps some suggestion. Thank you.

Thomas Rickert: Thanks Ricardo. And I guess that your position is very clear and you've made your points many times.

However I guess it's high time for the group to come up with potential compromise positions.

As you know, prior to Beijing I have recommended that the group sends out the report for public comment because we did - we were not able to come up with the potential consensus position.

My hope was that based on the registry stakeholder proposal we would make a move and then to the direction of consensus. But what I'm now seeing is that we start getting fragmented again.

So if you are willing to consider TMCH based or equivalent protections i.e., by prolonging the claims service or something like that then you should do so in the very, very near future because I - we need to close this in order to avoid wasting everybody's time by moving in circles.

And also please do bear in mind that as Alan said we're using the TMCH acronym but again in no way is our intention to put trademarks as well as your acronyms and names at the same level. It is just the deployment of the same technical infrastructure.

Greg please.

Greg Shatan: (Yes) speaking for myself although I think (it'll) - it may become the position of the IPC that, you know, it is a reasonable compromise of, you know, those at either end of the spectrum wouldn't be perfectly pleased with it, a reasonable compromise that acronyms, you know, so should be placed in a clearinghouse type structure of and, you know, there may be some trademark owners who would prefer not to have the competition if you will from a - or another organization but a, final get things with kind of a broader swath than just, you know, self-interest of certain members of the group or high (unintelligible) members of the group.

I think it's, you know, a reasonable compromise if the again operational concerns especially around sunrise.

I do think that they should be sunrise eligible. But then the question is is it a separate sunrise from a trademark sunrise? Is it before or after a trademark sunrise? You know, those questions would need to be developed.

Also the concern of trying to find a provider who could put together a second clearinghouse. But one would hope that the current clearinghouse infrastructure provider would be - could be persuaded to kind of build an extension or a second iteration if not putting them in the trademark clearinghouse itself which I'm not necessarily opposed to.

You know, I can see, you know, points on both sides. But I think that the - these are, you know, source identifiers whether there, you know, trademarks or not.

They are, you know, identifiers or sources of services or sources of policy information depending upon what the organization is or of persons of, you know frustration (unintelligible) sources.

And the- you know, the names deserve to be protected as such. Thank you.

Thomas Rickert: Thanks Greg. Excellent. I have two questions for you now the first of which relates to your comment on the need for having additional sunrise phases during the rollout.

I'm not sure I understand why this would necessarily be needed because as you do know there are certain requirements for mandatory sunrise phase.

And, you know, let's just assume for a moment that the designation set with source identifiers as you called them would be included in the same technical infrastructure as the TMCH. Then all registry operators would be required by the rules of the guidebook to honor those designations during sunrise which leaves us with the issue of potential contention sets during sunrise.



And it is my understanding that contentions during sunrise would be resolved according to the sunrise dispute resolution policy of the respective registry.

And I think that we could leave it to the registries dispute resolution procedures how they want to deal with that and that it would not necessarily be a task for us to craft policy for that.

What's your view on that?

Greg Shatan: Well I (think) the most straightforward approach would be that there was a single sunrise and that the trademark sunrise and sunrise for, you know, these other source identifies, you know, would be done - you know, it would be all in one sunrise.

But there is precedence say under Dr. (Beltz) for multiple sunrises and I think in some of the other prior launches of GTLDs or even over the years there have been tiered sunrises or, you know, sunrises in successions.

And I - you know, so I haven't delved into the ACB on this point enough to know whether there is, you know, there'll automatically be a single sunrise or whether there would be, you know, one sunrise after another.

I just, you know, if the ACB says, you know, this will - we're essentially creating a new class or a quasi-new class of protected designations. And, you know, it's not - I guess I would have to take some further study on the question of whether it's mandated that they be in a single sunrise or that they would be in phase sunrise.

Thomas Rickert: Thank you Greg. Now despite the fact that there is quite some controversy in this working group where the sunrise services should be made available to the potential beneficiaries of the outcome of this working group I would like to get some indication from the rest of the group whether you think that we as a group would need to craft additional sunrise or an extra sunrise requirement.

It is my understanding that certainly every registry is free to conduct additional phases during the rollout. I just want to learn whether we would need to take into our equation the definition of an extra sunrise or whether we can live with the policy or potential policy recommendation just referring to existing - the existing sunrise service.

Also Greg I'd like to note that if we, you know, the more extra policies or extra technical infrastructures we come up with the higher the chances that the contracted parties might not support it.

We've seen early on comments from the registries as well as the registrars that they would like to avoid setting up additional infrastructures.

Before moving to Alan sorry Greg, I have to ask you again because what I'd like to hear is whether some of the questions that we have sent to the email list over the last couple of days have been discussed by the IPC and what the position of the IPC is.

Greg Shatan: There's been some informal discussion but not formal discussion. So I'm hopeful that by our next call we'll a position just to report.

Thomas Rickert: And by when do you think we can get some indication of where the IPC stands? Will we have to wait for the formal consensus call or will you give us an indication of your position or the group's position before that?

Greg Shatan: Just clarify is our next call going to be the consensus call? Is that the proposal or...

Thomas Rickert: No I - what I was trying to find out is whether we will find out from the IPC where the IPC is positioning itself only when we conduct the formal consensus call from...

Greg Shatan: Oh no, no, sorry I misunderstood you. I would say, you know, no later than next week's regularly scheduled phone call.

And if we have these earlier reports I'll put them out on the email list.

Thomas Rickert: Okay thank you. That's much appreciated. Alan?

Greg Shatan: (Unintelligible) okay thank you.

Thomas Rickert: Greg did you want to add something? Please do.

Greg Shatan: I just wanted to add that, you know, one of my concerns about the second clearinghouse is that it doesn't (have) infrastructure (unintelligible). And for that reason, you know, wouldn't necessarily be opposed to putting these into the trademark clearinghouse as such. Thank you.

Thomas Rickert: Thanks. Alan?

Alan Greenberg: Yes two things. First of all recall that the trademark clearinghouse is really two separate functions. One is the clearinghouse and it's a database and it interacts with registrars and registries. The other is the mechanism for entering things into it.

And what we're really proposing here, you know, other than perhaps the detailed wording of the claims notice that it may not say it's a trademark, it may say it's something else, what we're proposing here is an ultimate method for entering things into the database and for validating their existence.

There are already going to be many such mechanisms because trademarks from different jurisdictions will be handled differently.

So although this is an expansion of the mechanism and perhaps will cost ICANN dearly because it wasn't in the original spec it's a minor iteration of,

you know, of the physical infrastructure that's going to be there to support it. So that's just, you know, on the - our use of the terms.

In terms of multiple sunrises, the mind boggles. I don't think we would want to start imposing on all registries extra major significant steps associated with these new additions. So I would want to avoid that at all costs.

I mean we're getting into an animal farm issue of, you know, some entries in the clearinghouse are more equal than others and have to be dealt with first.

And the mechanism for sunrise already has provision. But what if there are multiple entries in the clearinghouse that want to register in sunrise. So this already mechanism's there. I don't think we want to make things even more complex than they are now. Thank you.

Thomas Rickert: Thanks Alan. Greg?

Greg Shatan: Thank you. It's Greg Shatan. Two things. One, you know, the trademark clearinghouse already contemplates kind of three classes of trademarks if you will that can entered in. One of course are those that are registration.

The third is the one where there is a court - a judgment of the court establishing ownership of the trademark.

The second, you know, which is the one that's (germane) here is that trademarks that are established by statute or treaty so there already should be a mechanism that's kind of closely aligned with at least on the IGO side or maybe already is applicable to IGOs since they're name, at least their full names and perhaps their acronyms are established by statute or treaty and therefore, you know, it shouldn't be a big overhand or anything that should be highly costly.

Of course, you know, I'm not a registry or registrar can't speak to it. But that (unintelligible) from where I am.

Secondly I'm not necessarily proposing we should have multiple sunrises. It's just that as we propose perhaps a parallel clearinghouse or, you know, we're - at least have to deal with the issues and kind of state that we're proposing that this would, you know, be dealt with in a single sunrise (unintelligible). So it's just an issue we shouldn't glide over. Thanks.

Thomas Rickert: Thanks Greg. Any further comments?

Okay now for the TMCH equivalent type of protection I guess that still, you know, despite the various views represented in this working group I still think that the broadest support exists for a TMCH based approach rather than abrupt based approach.

So for a consensus call I would at the moment rather put out for consensus call recommendation which is in line with the registry stakeholder group's recommendation.

I am still unclear as to who exactly and under what circumstances either both services of the trademark clearinghouse can be made available or just the trademark claims service.

And I would like to hear particularly from those - I now that Mary Wong who brought this up in the first place cannot be on this call today.

But maybe Avri and Mason who've also stated some reservations for the use of sunrise service can try to point out the exact issues they have with it.

And maybe we can find a way to respond to that by tweaking the policy recommendation and, you know, get more common sense on that.

Avri I don't want to put you on the spot but would you be willing to elaborate a little bit on why you are hesitant with respect to the sunrise service?

Avri Doria: Okay not let - this is Avri speaking. Not like I'm not being put on the spot but I don't mind that.

My problem with sunrise for GAC marks is that or for, you know, IGO, INGO, et cetera, names is that sunrise not only blocks others it sort of gives a special privilege to register in all of the names.

And that's an extra step that we've never really talked about in terms of how do we protect these names.

In other words how do we give special privilege of protection is - has been the main issue.

The sunrise is - it has basically two elements, the blocking of those that don't have a trademark and the privilege to register for those that do have a trademark.

And we've never really discussed the extra privilege of registering within this group. So I'm saying it doesn't seem like it should apply.

Certainly once you get to the claims process it's equivalent because then we're talking about protection.

But the sunrise as I said, it's that second element. Thank you.

Thomas Rickert: Thanks Avri. Just to be clear I guess the gap that you might see here is a scenario where somebody who's using an acronym and does not have a trademark and does not apply for sunrise might be less privileged than the acronym holder where whenever the legitimate third party user does have a

trademark again they would be on a level playing field with the acronym holder.

So would you even object to allowing for this, you know, privilege of being on the same level - or on a - on the same level of protection with the trademark owners? Would that already go too far or are you concerned about those who don't have a trademark but who are legitimate users of an acronym?

Avri Doria: No my concerns is giving the GAC (mark) hold - I'm just going to use that for short, giving the GAC (mark) holder privileges to register which at the moment trademark people are being given and I'm questioning whether it's even within this charter of this group but it probably is to give them the right to register in all domain names, a trademark level right to register.

So I'm sort of saying that the GAC mark gets protections but doesn't get that extra privilege.

I'm not sort of saying that other people should have that privilege too. It's a special privilege we're talking about giving. We're talking about giving the special privileges of extra protection. And, you know, in certain cases that's being accepted.

And this is yet another special privilege, the privilege to have first registration rights. Thank you.

Thomas Rickert: Avri sorry for being stubborn on this. What I try to find out is whether we can find ways to make you support the participation in sunrise.

And one of these ways could be to allow for non-trademark owners that are legitimate users of an organization's acronym for example to challenge the sunrise registration.

And they are, you know, - and by doing so maybe getting...

((Crosstalk))

Avri Doria: (Gracie) (unintelligible).

Thomas Rickert: ...to the resort of the conflict resolution mechanism.

Avri Doria: Okay this is Avri again. I would say that's designing a new mechanism for objections to sunrise that would need to be applied to everyone including all trademark holders.

And there's probably a spot in my heart that might like to see that. But I think defining such a new mechanism would be incredibly difficult and not something that I'm suggesting or probably jumping on the bandwagon for.  
Thanks.

Thomas Rickert: Okay. Well I guess that answers my question. I have Greg next.

Greg Shatan: Thank you Thomas it's Greg. I think (unintelligible) I would not agree with the characterization of sunrise as a right to block others.

It's merely a right to register. So I wouldn't parse it into those two pieces. If a brand owner or a - somebody else if we get - if we let them into a (unintelligible) the right to register during a sunrise they can do so. And then they get a trade - they get a domain name registration not a block. And they can use it as they see fit like any other domain name holder except they've paid more for it.

And if they elect not to enter into the sunrise even though they're eligible for it then it goes into the as Alan called it the Wild West or at least into the general registration process.



So I think that's kind of distinct so I would not - it would not draw. So I think that - I certainly think it's within our mandate to allow a sunrise type registration for ITO and (unintelligible) owners if they're, you know, place in a clearinghouse type process. Thanks.

Thomas Rickert: Thanks Greg. Alan?

Alan Greenberg: Thank you. Avri and I agreed on a lot of things earlier in this meeting. I'm going to disagree in this one.

To a large extent the sunrise is invisible to the vast majority of Internet users. Their names that if exercised get registered early in the game and as Greg pointed out probably at a significantly higher price than the \$10 a year that they may otherwise be paying on many TLDs.

And if that's the price to pay for stopping, talking about blocking type protection then from my personal point of view go for it.

It only has a real impact if there are competing trademarks or competing IGO marks for that matter that both of which want to register during sunrise and then there are processes that would be followed.

If it is not exercised or there are no competing ones then a registration (filed) that is later at a lower price would work and probably get the name.

I don't think it's the thing - I don't think it's an issue worth spending an awful lot of time on if that's the last issue we need to discuss. Thank you.

Thomas Rickert: Thanks Alan and unless there is anybody else that wants to speak to this I would actually like to end this part of our discussion.

And it seems to me like it's useful for us to keep the registry stakeholder groups proposal on acronym protection within the framework of a TMCH type model on the table.

I've seen hesitation for sunrise. I've seen support for sunrise protections or the availability of both sunrise and claims service.

So in my view that is still the recommendation that gets most traction. But I would like to invite all of those who do not share this assessment of the current situation to let me know and I will certainly reconsider.

Because what I would hate to do is misrepresent the viewpoint of the whole group. So again for the time being I guess the proposal that gets more traction is the inclusion of acronyms in the TMCH with both services being claims and sunrise.

And you please do object to that either today or later by email. But I guess that's for the time being the part of a set of recommendations that we could keep up for a consensus call.

Now we have also included the INGO topic again on the agenda for today's call. I am conscious of time. And I know that we need more time to discuss this in total.

But I just want to make sure and I hope that I've done this with sufficient clarity on the email list that in no way did we intend or did I intend to suppress the discussion surrounding the INGO protections. In fact that's part of our charter and we need to work on that.

We have shelved that because there was the hope that we would get some traction for the IGO protections. I guess the least controversial today is the IOCN RCRC protection.

And the most contentious is actually the INGO protection. So I have get - I have sent a call out to the mailing list asking for concrete proposals as regards INGO protection so that we can discuss them and actually include them or not include them in a potential consensus call depending on the level of support by the group.

But we have to make sure that at least it's on our table and remains on our table until we do a consensus call.

And thankfully Claudia has sent a proposal to the list. And I'm not sure Claudia whether you're in a position to do so now. But you have actually come up with a long rationale for and explanation for the protections or the approach that you are proposing.

But what you are - what you have included in there is a set of qualification criteria. And if you could I think it would be great for the group to hear from your first handed what your suggestions for qualification criteria are.

Claudia McMaster Tamarit: Hello Thomas. Thank you for the invitation. And I do hope that we have individually time to think about this at our own respective desks further than the last few minutes that are going to remain on this call.

But just to first emphasize it's not only ISO's proposal. It's also a joint proposal coming from IEC, a sister standards organization that has also existed for several decades and has extensive rights in its acronym and logo.

I - we did propose some criteria which we believe is very much consistent with what we've been talking about discussing, proposing, suggesting for several months.

That being said, we really did try to emphasize on something that we believe may have been lacking which is a focus on some of the legal protections that INGOs might have that are beyond as some say a trademark protection that

might be a basis or an indication of the global scope of their work, their international status, you know, being recognized under national legislation.

In our case we point to very specific legislation. There might be other INGOs who also enjoy particular privileges or immunities or protections in their own state of headquarter or other ways.

But in any case I think we just really wanted to raise our hand and say because as we've said the general counsel statement didn't look at INGOs. They said it themselves. And we've - INGOs are (under) of the Olympic Committee and Red Cross of course, didn't include looking at other legal protections including some of the - what it means to have trademark protection and perhaps even well-known status as a protected trademark in a name.

And so we've put that as one of the criteria just to highlight that and to bring to the attention both to all of the, you know, individuals in this group.

We have discussed this before but just really to highlight that protection and also possibly and hopefully to ICANN and its general counsel as well to say look here's a hint. There might - you might actually find something if you go down this route to look into legal protections for INGOs.

We've also included other protections just boiled down or excuse me, other criteria boiling down to what really does set aside, you know, certain INGOs as particularly vulnerable to cybersquatting in the upcoming expansion of the DNS and trying to keep that group appropriately limited on a policy basis, on a public interest basis and on a legal basis.

So we share with you what we've written. We've also added to that at the end some suggestions for ways of thinking for top level and second level protection.

Just listening, you know, every week as everyone else has to what we think might be a consensus point or there might be some strong support.

We are suggesting here to perhaps go for, you know, these weak protections that would help in our opinion as INGOs that have to on a daily basis deal with, you know, cybersquatting and fraudulent uses of our names and our acronyms. That would be a significant help.

You know, it's not the answer to everything but we really tried, you know, our very best to try to find a sort of balanced approach in terms of receiving some of that help that is, you know, cognizant of our work as many people in this group have pointed that has everything to do with the Internet, have everything to do with technology, have everything to do with, you know, aspects that effect absolutely every aspect of our life.

And so we just think that this is perhaps a platform. Just to sum up this is a platform for perhaps inviting others in this working group who've had some hesitations to discuss the possibility of opening this up really in a very serious way to NGOs again to the limited group that I think would be appropriately protected and when we say protected, something that's truly, truly balanced.

And if, you know, like we say in this email, if there is a way of appropriately balancing some sort of a modifiable reserve names list then this may also be the way to go.

But as we detail some of our concerns so far we haven't heard that. But if it is developed then by all means we can support it. So I think that's more or less a summary Thomas.

Thomas Rickert: Thank you so much. And I would like to say that I'm very thankful for you to - and your colleagues having taken the time to come up with this proposal.

As you know we have asked whether the participants of this working group are in favor or against INGO protections. And as you will have read the level of support for INGO protections has not been overwhelming to use a euphemism so I think that it's very valuable to have something on the table that can be discussed.

And I would like to hear from the members of this working group whether you like the idea of moving forward on the basis of this whether you have suggestions for ordering the existing proposal so that you can like it or just an indication that or confirmation that even this proposal made by Claudia has not changed your mind in terms of not granting any protections to INGOs.

So I have Alan first.

Alan Greenberg: Thank you. I'm not going to comment in any great detail other than to say I'm glad to have this discussion or at least part of this discussion focus back on why we started this originally several years ago.

And that's about fraud and cybersquatting and related activities. If it wasn't for those there'd be no need to have any protection. So I'm glad to have the direction moved back towards there. Thank you.

Thomas Rickert: Thanks Alan. And in terms of support have you had the chance to either individually or either with the group digest Claudia's proposal?

Alan Greenberg: I have not. I will point out that the ALAC has in several statements before said we support some level of protection for - I'll use an undefined term. But for needy INGOs that we feel those are among the groups that most warrant some level of protection because of the high incidence of cybersquatting and fraud. Thank you.

Thomas Rickert: Thanks Alan. I certainly do remember that you have made this point in your response to the request for input at the very beginning of our discussions.

At the same time you have made clear that you would like to see certain qualification criteria or hurdles or whatever the term was that you were using at the time or that (Alec) was using at the time so that only certain organizations can be eligible for protections.

And I guess that what we need now is feedback from the group as to whether we should or should not include either the exact proposed recommendation from Claudia in a consensus call or a variation thereof.

So can I hear...

Alan Greenberg: And as soon as I read it I will tell you that.

Thomas Rickert: I'm sure you will. Thank you so much Alan. Do we have any further views on this?

And I'm not - Greg please.

Greg Shatan: Hi. This is Greg Shatan. I just, you know, as a general matter, you know, I'm in favor of this. I think it's a good point for discussion. I think - I echo Alan. I think it's, you know, every good point to make to the others.

It does go back to protections and against the consumer harm and against, you know, established (plotting) and fraud. You know, that's a major concern.

I certainly think that, you know, INGOs, you know, deserve our attention. I think it would be a failing of this - if this group if we did not, you know, work through the INGO issues fully.

And, you know, it's I think would, you know, even though, you know, most of us are not INGOs. Now I'm curious in a sense, you know, I count IGOs or

rather INGOs as a member of civil society and NCUC or at least NCSG is (unintelligible) interest of civil society among other things (unintelligible).

Man: (John)?

Greg Shatan: You know, from that basis what...

Man: (John)?

Greg Shatan: ...that position is from that group or members of that group.

Man: Okay.

Thomas Rickert: Can I ask those who are not speaking to please mute those microphones?

And Greg you're perfectly right. We should work through the IGO issue in full because that's part of our charter.

However I guess what we need now is a clear statement from all participants whether they like the language that is on the table and if they don't like it what needs to be tweaked.

And if they don't like it at all regardless of tweaking they should also state so so that we can get a clear indication of the level of support which and I repeat myself, which hasn't been overwhelming for the INGO.

So I guess that unless we get traction, visible traction for INGO support beyond the fact that there is the acknowledgement that there might be needy or worthy INGOs then I guess we're stuck and we don't get traction for a consensus. David please.

David Maher: Oh I just wanted to repeat that the position of the registry stakeholder group is that there should not be special protections for the INGOs.



This would not deprive them of the protection that they may have under the existing ICANN procedures. Thank you.

Thomas Rickert: David a follow-up question for you. Would you be supportive of parts of the recommendations that we have discussed, i.e., opening up existing mechanisms such as UDRP to the designations of INGOs so that at least they would have the benefit of a reactive mechanism?

David Maher: No. My understanding of the registry stakeholder position is that that would come under the category of special protections and we'll do which we are opposed.

Thomas Rickert: Thank you for that clarification. Avri you're actually the last member of the working group to speak today.

Avri Doria: Well thanks. This is Avri speaking. Yes I just wanted to point out since the civil society question was asked both personally and I believe largely NCSG though I obviously need to confirm I believe that we support giving the same special protections to IGOs and INGOs.

And I think the only difference I really recognize in these is that the admission control sort of determining who gets it is somewhat more complicated by - for the INGOs than the IGOs.

So that was basically what I wanted to say. So and I believe that we're not alone in supporting INGO. I believe this group may be split on it.

I don't think I agree with your assessment that there is no support for INGO. I think we're a split group on it. But that's for you to determine. Thanks.

Thomas Rickert: Well Avri that's very helpful. But I guess I'm struggling with the fact that, you know, there has been sympathy for the predicaments that some INGOs are in.

But what I haven't seen is actually the definition or the concrete proposal of policy recommendations. And I guess we do need that in order to move forward.

I'm no way injecting the fact that...

((Crosstalk))

Thomas Rickert: Go ahead Avri.

Avri Doria: I mean between what's on the screen and discussion of applicant support type mechanisms that is a proposal.

And so I'm saying that certainly I support this. I think this fits very well with an applicant support kind of process.

I've had the impression that some at large members -- I don't know about ALAC -- there is support for doing something for INGOs.

So it's not a full package but it is a recommendation that indeed there is an admission control process that can be created. One is defined on the screen at the moment.

So I don't think that there's an absence of proposal. I think there is proposal.

Thomas Rickert: Thanks Avri. I guess that we need to consider that further. I am conscious of time so I will ask you for two minutes patience and quickly move to the fifth point on the agenda.

I thought that we had a very good discussion and informative discussion today. However I think that you will agree with me that the level of responses or the number of responses to the various questions that we asked between the call two weeks back and today has been quite poor.

And this is certainly not to discourage those that have contributed from further contributing. So your contributions were most welcome. But I guess that we would need to see more on that.

I am still uncertain whether we should move forward on the basis of, you know, little communication in-between calls and on, you know, trying to define consensus positions during the calls.

I guess that it should be the other way around that we have the substantive discussion on the mailing list, concrete proposals put in writing on the mailing list and then just exchange the pros and cons of these during our call.

So I'm not sure whether by moving forward as we do for the last couple weeks whether we make the best use of our time.

So I'm still uncertain as to whether we should move back to the original suggestion of not doing a consensus call or working on a consensus call position but actually to put out the comment, the report for public comment and then do a consensus call or the formation of a consensus, potential consensus position on the basis of the feedback that we get from the community.

I would say that I will wait next Tuesday. And it will depend hugely on the - on your agility and your proposals that you put to the mailing list whether or not we are going to have a call next week.

So, you know, should I not see substantial progress on the discussion of a position or a set of recommendations that we can put out for consensus call I

will reserve the right to cancel next week's call and publish or you know, call - have the initial report finalized by staff and send that out for public comment.

You know, that certainly depends on what's happening between today and next week. But I guess this is just for the sake of making use of everybody's' time.

So with that caveat we should reserve two hours in one weeks' time at 17 - at 16 hours UTC. But please be prepared that the call might be canceled if we don't see substantial progress being made on the mailing list.

And with this I would like to thank everybody for their attention for their active contribution and the meaningful discussion. And I hope to reach you very soon on the mailing list. Thank you and have a great day.

Man: Thank you.

Man: Take care. Bye-bye.

Woman: Thank you very much.

END