

ICANN Transcription
IGO-INGO Protections Policy Development Process (PDP) Working Group
Wednesday 15 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 15 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/gnsso/gnsso-igo-ingo-20130515-en.mp3>

On page: <http://gnsso.icann.org/calendar/#may>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:

<http://gnsso.icann.org/calendar/>

Attendees:

Jim Bikoff – IPC/IOC
David Heasley - IOC
Chuck Gomes – RySG
Alan Greenberg – ALAC
Stephane Hankins - NCSG
David Maher - RySG
Kiran Malancharuvil – Personal capacity
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 Lauter – IOC replacing Kiran Malancharuvil
Wilson Abigaba – NCSG
Greg Shatan – IPC
Debra Hughes – NCSG
Mary Wong - NCUC
Osvaldo Novoa – ISPCP
Poncelet Illeleji – NCSG
Mike Rodenbaugh - CBUC

Apologies:

Guilaine Fournet – (IEC)
Wolfgang Kleinwächter – NCSG
Avri Doria – NCSG
Ricardo Guilherme - RySG

ICANN Staff:

Berry Cobb
Brian Peck
Nathalie Peregrine

Coordinator: You may begin.

Nathalie Peregrine: Thank you very much (Connie) and good morning, good afternoon good evening this is the IGO, INGO, PDP Working Group call on 15 May 2013.

On the call today we have (Francois Lolee), Claudia MacMaster Tamarit, (Wilson) (Unintelligible), David Maher, Chuck Gomes, Thomas Rickert, Alan Greenberg, (Judd Lawter), Mason Cole, Jim Bikoff, David Heasley, Evan Leibovitch, Osvaldo Novoa, Greg Shatan, David Roache-Turner and Christopher Rassi.

We have apologies from Wolfgang Kleinwachter, Ricardo Guilherme, (Glenn Forning), and Avri Doria.

From staff we have Berry Cobb, Brian Beckham, and myself Nathalie Peregrine.

I'd like to remind all participants to please state their names before speaking for transcription purposes. Thank you very much and over to you Thomas.

Berry Cobb: Thomas you're on mute if you're speaking.

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

Hearing...

Berry Cobb: Thomas this is Berry. I just would like to let you know that we do have a few new participants that have joined the working group.

First is Mike Rodenbaugh, (Judd Lawter) has just - it was mentioned before the recording started but he's with the IOC.

And we have a third member that has asked to join but hasn't - I don't have their name in front of me but has asked to join the working group and probably will start seeing activity on the list.

Thomas Rickert: Great. Thanks Berry and welcome again (Judd) and welcome Mike. It's great to see that obviously there are more and more people being attracted by this interesting subject and you're fortunate because we've done part of the work that has to be done.

So you can already benefit from some of the immediate findings that they group has come up with.

Now as you will see from the proposed agenda the agenda for this call is very short. And that is partially because I guess that, you know, we've exchanged an awful lot of thoughts on the various positions.

We have discussed various proposals that have been made by individuals working with us in this working group.

And it turned out, you know, sometime surrounding the Beijing meeting that there was a set of recommendations that got some traction.

And we have further discussed these recommendations that have primarily been reflected in the registry stakeholder group's paper.

Subsequently I have asked a couple of times whether the members of this group had more proposals or alternative proposals to what's being recommended in the paper.

And we've discussed things like potential fee waivers and other aspects of potential protection mechanisms that at least according to my assessment did not get too much support within the working group which is why we have, you know, and we as Berry, Brian and myself we've put together a little spreadsheet because we wanted to find out whether the members of this working group and I mean not only those that are present on these calls but also those who are reading the email list that all - that they actually get a chance to contribute and if it's just by saying no we don't like all this to the process.

The reason for that is that I guess that we have exchanged a lot of views on the various aspects of potential protection both at the top level as well as at the second level.

We've talked about identical matches to the names. We've even talked about similar strings and potential purchase for protection of those.

We've talked about names and acronyms. We've been looking at the legal situation supporting that or not supporting that in certain circumstances.

And ultimately I guess that the set of recommendations that you find in the spreadsheet is the best set of recommendations that we had on the table so far.

I should say also that these recommendations that are primarily derived from the registry stakeholder's proposal were just referring to three out of four types of organizations that we're looking at.

You will remember that according to our charter we're tasked to look at the IOC, the RCRC, the IGOs and the INGOs.

And certainly the - there was no intention whatsoever to not talk about the INGOs when we talked about the registry stakeholder proposal.

But this specific proposal just related to the first three types of organizations. While we didn't, you know, although we've discussed that at length although we have not been able to get too much support for a set of criteria for eligibility for protection for the INGOs.

And recently Claudia MacMaster Tamarit has thankfully submitted a proposal that was liked by some to the list.

But it was my impression that those who have voiced -- how can I say that maybe sympathy is the best word for it -- with the set of criteria have also indicated that these would be maybe a starting point or that additional refinement of the criteria would be needed.

And this is why we've also included those in the spreadsheet. I should also say that, you know, having mentioned them at the bottom of the spreadsheet is no way meant to be a ranking.

So I guess that everybody will appreciate the fact that we're working on all four types of categories and that we're trying to digest the proposals.

And it was our hope that we would get support or signs of opposition to the there is recommendations that are mentioned in the spreadsheet for us to be able then to determine whether, you know, it is worthwhile reopening the

discussion on those, further refining them to get closer to a consensus position, or whether actually everything that has been said was said and that we can move on to a consensus call.

I'm cognizant certainly of the fact -- and I should clarify that thanks to Claudia I'm in a position to do that -- that the proposal that she has submitted is a joint proposal so it's not only deemed her proposal.

And before I move to Claudia who has raised her hand I would also like to say that the spreadsheet that was set out - sent out to you asking for feedback was not meant to be a consensus call.

It was to share with you the level of consensus or the absence of it from the chair's perspective as a snapshot based on the discussions that we had.

And we've also asked whether the participants of the group would like to see other recommendations included in the set of recommendations.

And also to indicate if, you know, if let's say they would like a certain recommendation with some changes to it that they should explicitly say what they would need to have changed so that they could support it or if they want stronger protection what stronger protections there should be so that they could support it.

So I guess that is pretty much what I wanted to say as an opening statement. So again this was not yet a consensus call but this was just to see whether there is momentum in the group to further work on and refine the set of recommendations on the table or whether everything has been said that you as members of this working group wanted to say and then we could actually move on and do a consensus call.

So Claudia you have raised your hand. It's - the floor is yours.

Claudia MacMaster Tamarit: Thank you Thomas. Thank you again for that point of clarification.

I do think it is important to emphasize that the proposal did not come from me in my full capacity it came from us as, you know, representative capacity from ISO and from IEC to INGOs that are very well known and have had a substantial history.

Second of all I'd like to just clarify it's not the first time that we - that I have and for ISO proposed some criteria.

We've been proposing criteria for several months now. So just to clarify its definite something new and it's very much in line with what we have been proposing in the past.

However the third point I'd like to make is to say that it does reflect some maturation of our ideas some of the exchanges that we've had with several members of the group who have raised their concerns.

And just we have now implemented a rather reflected that input on - into something that we hope is very, very reasonable which was our one of our larger concerns in terms of some top level protection for example that was not reflected in this Excel sheet which is much more along the line of technical and financial assistance. So thank you Thomas.

Thomas Rickert: Thanks Claudia. And you are perfectly right in saying that proposals for INGOs have been made earlier but also proposals have been made for IOC, RCRC, and IGOs.

But, you know, the - for none of those proposals that were on the table there was sufficient traction to call it consensus or even somewhere near consensus.

So I guess that would registry stakeholder base proposal based document that we had on the table that was the first time in the history of this working

group that we got some traction or, you know, more support than for other proposals that have been made.

And I guess that also the set of criteria that you have submitted has been received more welcoming by at least some members of this working group than the previous proposals that have been on the table.

But thanks for the - these additional explanations. I would very much like to open the discussion with you and it can - it's pretty much an open format discussion because I want to get some feedback from you so that we can or you can help me make a determination as to how to move on.

During last week's call I have mentioned to you that I basically see two options to move forward one of which is that we put out the initial report for public comment to get feedback from the community that might stimulate our thinking so that we can come up with more or alternative recommendations which would then be the basis for a consensus call.

And the second option would be to further discuss and refine the proposals that are currently on the table.

And then do the - or publish the initial report afterwards including those recommendations that have been, you know, that have been the further refined by the working group.

I have to be honest with you I would have hoped that we would get more feedback particularly from those who have said earlier that they're not happy with the set of recommendations on an as is basis.

But there has been little response with respect to that. So we have not seen a substantial changes by many to the recommendations or additional or alternative recommendations that we should discuss.

So I am not sure whether we as a group should actually open up the discussion more at this point in time because I guess there's no real new thought that has been voiced.

I - but that's something where I would like to get feedback from as many of you as would like to speak.

So that, you know, we need to determine now whether we think that there is momentum for further refining these recommendations.

And if we think that everything has been said that has to be said and that those opposing to certain recommendations will continue to oppose to them and that they don't have proposals to change them so that they could like them then we could either put out the report and do the consensus call afterwards or we could even do the consensus call now if we don't expect more movement to the scene of views let's say in this working group.

I have consulted with ICANN staff earlier on. And, you know, we could have initial report ready sometime next week.

So the time difference between us publishing the initial report without having done a consensus call versus doing the consensus call and then putting out the initial report would only be a couple of days.

So, you know, this is just to set the scene for discussion and I have Claudia first in the row.

Claudia MacMaster Tamarit: Hi Thomas. Just to answer your question about this particular X terms of some ways of moving forward.

Some points of clarity. I found it quite difficult to answer what we would say to certain of these propositions for two reasons.

One it seems that the protections are not separated from those who are protected. And like I said it can be very misleading if for example we were to support a full need exact match to be added on the top level but then specifically include (unintelligible) organizations not including INGOs.

I think that's a very confusing message. So I would recommend if possible and if others agree to separate the protection asked for from those who are protected that way you can get a more specific response that's not misleading.

And I think second of all if possible also to again please include in the top level protections the protections that the ICO IEC proposal included which was the fee waivers fund - funding for objections at the top level which is a very different kind of protection from an exact match reservation.

But it's still very much a real assistance both technically and possibly financial for a protected organization.

Thomas Rickert: Claudia I'd like to briefly respond to that. With this document that you have in front of you we've tried or I have tried to share with the group my current assessment of the consensus level.

And according to my assessment we do have consensus for IOC, RCRC, and IGO protections for exact match names at the top level.

We do not have that consensus for the INGOs. And also we've been discussing the question of fee waivers.

And members of this working group have even gone to their respective groups and got feedback from there.

And the predominant response that we got was that they were not in favor of fee waivers or fee reductions.

So that according to my assessment consensus would be limited to the three organizations without fee waiver.

So that's just a point of clarification because this document should not list all the protections that have been discussed by the group but this document should only reflect those recommendations that I from a chair's perspective -- and unfortunately it's my duty to do an assessment of the consensus level -- to share with you the level of consensus that I have spotted. Alan you're next.

Alan Greenberg: First a question and then a number of comments. When - in the chart you say consensus. What level of consensus are you implying because the working group rules talk about different levels of consensus?

Thomas Rickert: Yes. And you find them there. And as you know there are various types of consensus. So consensus is - or the word consensus -- I'm not talking about full consensus -- is used synonymously with rough consensus.

So maybe the term rough consensus is more known in the trade for what we have now declared or tagged consensus.

Alan Greenberg: Okay. I would suggest that what you have in several of those cases is less than consensus that is only a small minority.

Since At-Large, NCSG and to a large extent the representatives of the INGOs are not agreeing in, you know, in this - on some of those.

So I question whether the word consensus is the correct one however that wasn't the gist the main reason I raised my hand.

Two things number one I'd like to strongly support the position that Claudia submitted on behalf of the INGOs. And I've privately identified with her some concerns I have, you know, at the detail level.

But overall - and the reason I'm saying it here is I found it refreshing that she was looking at and suggesting she and the co-presenters were suggesting protections other than blind blocking.

And I really wish this group would focus on multiple levels of protection and differentiate between them to try to come to closure on it. That's point number one.

Point number two is -- one second I this whole thing has now shrunken up that I can't see it. Hold on.

I really feel that if we're going to come out with a preliminary report a preliminary report in my mind should be of one of two different flavors.

One it is something that we believe is close to a final report and we want to get community comment on or two the group is divided on a number of issues.

And in that case I believe we need to present all of the alternatives or both of the alternatives that are viable to parts of the group so that we can get community comment not only on the majority one but on the others as well.

So for instance in the case of top level protection yes there are number of people who say let's just block them, put them in the guidebook, and put them in the registry agreement and there- or rather the guidebook and they're blocked.

And a number of us have said that we do not believe there should be blocking. We believe objections either existing ones or new ones should suffice and possibly augmented with fee waivers and things like that.

So if we do not have very close to full consensus on a position I do not believe the preliminary report should present only the one case. I believe it must present the alternatives. Thank you.

Thomas Rickert: Thanks Alan. Just a quick reaction to your points number one thanks so much for your observations with respect to the consensus level.

And this is actually what I have explicitly specifically asked in my note that was included in Berry's email to the list because I wanted to get your feedback whether you share my view on the consensus level or not.

And it's good to hear feedback on that although certainly I would have wished that you fully share my observation and assessment but that's very valuable input.

As far as the INGO recommendations are concerned it is good to see that you have individually discussed with Claudia and you will remember from the very early days of this working group that I have very much encouraged and at times participated in individual discussions to help work on compromised positions that would stimulate consensus finding.

However what I have not seen yet is a lot of traction for the recommendations relating to INGOs. And that was also a reason why we did this exercise with the spreadsheet because we wanted to find out whether there is still little support for those or whether, you know, the situation has changed particularly in the light of set of recommendations that was lately sent out by Claudia to the list.

So again I would encourage all of those who think that there should be protections for INGOs to speak up and make themselves heard or document that on the list because so far I have not seen too much evidence support for that.

You know, there have been as I mentioned earlier there has been sympathy. We have heard people saying -- and I'm not going to quote any names because I wouldn't be able to accurately quote them from the top of my head -- who said that there are INGOs that are worthy of protection but they didn't further specify on the basis of what criteria that should take place.

And I said okay if you want these to be protected you have to spell out a proposal. And if you don't like the proposals that are on the table then please let us know so that we have something to discuss what your proposed changes to the existing language are.

So again if you want the INGOs to be beneficiaries of the protections or included in the set of recommendations that we can put out for a consensus call please make yourself heard.

Lastly -- I guess well I guess I lost my train of thought there -- but I guess it was also related to this very point.

But Alan is the second in the queue so he can refresh my memory so that I can then comment. I have (Panfeli).

(Panfeli) you are next. Maybe your microphone is on you.

(Panfeli): Thank you very much. (Unintelligible) thank you very much Thomas. I just want to go back into you're - the options you said you have.

And I believe (unintelligible) we have (unintelligible) now we should start getting feedback. The initial report should be published and we'll get feedback from comments.

But covering our views (unintelligible) that whether a consensus or it has (unintelligible) we can get the different views on when the comments are made and then we can now come back and do the analysis.

I think that we should go forward so that when it's out there for comments I think we should (unintelligible) especially when it comes to INGOs protection. That was my initial contribution. Thank you.

Thomas Rickert: Thanks so much (Panfeli). And in the meantime I've - the point came back to me and that was Alan's point on the report which you (Panfeli) also touched upon.

Just to be clear certainly the report will contain the options that we're discussing. And it will not be confined to the latest set of recommendations.

So in that sense, you know, in order to get more feedback from the community we will certainly share with them the views that have been exchanged by this working group and be able to make an informed decision or on what they would recommend, or comment, or even make alternative proposals. Alan please?

Alan Greenberg: Yes just to be clear on related to the INGOs ALAC has been saying we support some level of INGO protection from way back before it was even on the table and we started looking just at the Red Cross and IOC.

And I believe in the last few calls Avri has indicated a similar level. I'm presuming Claudia will come out with a revised version based on the comments she's gotten privately and the feedback on these calls.

And I, you know, I think you're going to see more support than you've seen before. You may well not get support from registries and registrars and some other parties.

And I'll put a personal stake in the ground this is one of the few areas where when we start talking about the public interest and is ICANN supporting it support for INGOs of the class we're talking about I think is one of the

measures that ICANN is going to be rated on. And I think it's - I believe it's an important issue.

If this working group ends up not recommending such a level of support I know you're going to get a minority report from - there are at least At-Large.

And I would hope from others because I think this is a really important philosophical question that ICANN should not be ignoring. Thank you.

Thomas Rickert: Thanks Alan. And since you were saying that "you will get a minority report" so if you address me...

Alan Greenberg: Not you the working group and the overall report.

Thomas Rickert: Sure, But let me be perfectly clear on that. I'm absolutely neutral as regards to the question whether or what protections are going to be recommended or not recommended.

I - it is my duty though to guide the group procedurally and make assessments in terms of the consensus level.

And also I feel sort of a moral obligation not to waste everybody's time. And it was my feeling that we have been starting to move in circles because people have sort of stood firmly with their original positions that they have repeatedly documented both on calls as well as on written statements on the mailing list.

And...

Alan Greenberg: Thomas to be clear you is the convenient pronoun it was not aimed at you the person. I...

Thomas Rickert: No but it was...

Alan Greenberg: ...support what you're doing overall.

Thomas Rickert: Thanks Alan. But it was an opportunity for me to comment on that. And I should also add that it is true Alan that ALAC has voiced support for the protections of INGOs.

That was included in the paper that you have submitted in response of the feedback the request for feedback form, you know, I guess the name I'm not remembering correctly now but you've made that statement.

But you will also remember that at the time I have asked you what the exact criteria might be because not, you know, you have come up with the general notion that there are worthy INGOs and that subject to certain conditions protection should be made available to them.

But the question or the question on from concrete criteria i.e. protections and what number of countries and so on and so forth those questions have remained unanswered.

And I guess that's the difficulty that we're dealing with that for the IGO - INGOs in particular there has been sympathy.

But and - but we have not managed as a group to come up with a set of criteria that would serve as the basis for, you know, eligibility for protections that would find broad support with the working group. Greg please?

Greg Shatan: Thank you. It's Greg Shatan. I would, you know, first note that, you know, I've been voicing support again for some level of protection for INGOs as well.

That's the general sense I get from other members of IPC although I think we need to, you know, look carefully at, you know, again the devil's in the details what the eligibility criteria are, what those protections are, whether they are in fact additional protections noting that one of the criteria put forward by the

IEC/ISO is trademark or other legal protection under, you know, laws of multiple countries.

That would seem to mean that there were already qualified to register in the TMCH either as trademark holders or a statute/treaty protected trademarks.

So not entirely sure that what's being sought as additional protection perhaps just a clarification of that existing protection, you know, is there.

And maybe there is more of a need for outrage than there is a need for a change in any actual eligibility for the trademark clearinghouse. Thank you.

Thomas Rickert: Thanks Greg. That's very helpful. Alan?

Alan Greenberg: Yes. I guess I just want to say when we made the original proposals we were talking about far more subjective criteria which is what the ALAC had recommended at that point.

I'm delighted that we now have some INGOs who are speaking up and - on behalf of themselves and coming up with criteria which may be more acceptable to this group than what we proposed.

And, you know, to a large extent this is something we supported but we're not and INGO. And it was not easy or perhaps realistic for us to propose the details.

So I'll just go on record as saying I'm happy the way it's going now and I hope it'll go faster than it was before. Thank you.

Thomas Rickert: Alan I have one follow up question for you and that is that ALAC has been very firm on the requirement of evidence of harm.

So are you suggesting that ALAC has changed its view or maybe I have misunderstand ALAC's view so that you would accept protections without the evidencing of harm if only the objective criteria would be - or the criteria that would be objective enough?

Alan Greenberg: We've made the case that evidence of harm or perspective harm should be part of all of this because in general we do not support protections which are not allied with that. That is the main reason to do it is to stop bad things from happening.

From my personal point of view -- and I'm not going to try to do - make a statement based on statistics -- I would think INGOs are among the easiest ones who could prove that kind of past and prospective harm.

But if the group is not willing to accept that for anyone then, you know, there's only so much I'm going to tilt at windmills which aren't going to go over.

So I would prefer to see harm demonstrated on all cases as a prerequisite. I suspect INGOs would have about the least - many of the INGOs we're talking about would have about the least difficulty in demonstrating that prospective harm but that doesn't alter our feeling.

But if it's not going to go anywhere it's not going to go anywhere. I'm not going to keep on beating it just to see if it dies.

Thomas Rickert: Thanks Alan. And just to give a little bit of history to those who have not been on the call from the very beginning there has been a big debate as to whether harm needs to be evident as a prerequisite for granting protections.

And we had the different camps in response to that question. And there were those who said they already had provided evidence of harm previously to the group.

There were others who said that they are receiving legal protections which are granted without them being required to evidence any harm.

So they were not willing to offer any evidence of harm. And we have not been able to come up with a compromise on that.

So, you know, I guess at the evidencing of harm is something that we can't really proceed on. Evan please?

Evan Leibovitch: Okay. Well - I sorry this is Evan Leibovitch. I just wanted to - although I haven't said much I haven't had to because Alan basically has been saying just about everything that I wanted to.

And I just wanted to express my support for what he's saying and especially on the issue of proving of harm and on the additional issue that IGOs probably would have an easier time of it than many of the IGOs coming forward in terms of proving public harm.

So I just wanted to make it clear that even though what Alan says he's speaking in a personal opinion number one by and large I'm agreeing with most of what he's saying.

But also to say that the viewpoints he's expressing are indeed I believe widely shared within the At-Large community and could easily be endorsed should it come to that. Thanks.

Thomas Rickert: Thank you very much Evan. Any more comments? So we've been discussing the INGOs now for quite some time.

I guess what I would like to hear from the representatives or the individuals on this call is whether they think they would be able to support INGO protections on the basis of the criteria in the spreadsheet, or variations thereof or can we not expect any movement on that?

I see that's the reason why we have put together the spreadsheet because it's, you know, we wanted to give everybody the chance to say yes or no or, you know, make their own proposals.

But it is difficult to determine a lack of consensus or the presence of consensus if you don't make yourself heard. (Mary)?

(Mary): Hi Thomas and everyone. This may not be particularly helpful but NCSG has not been able to come together to discuss our responses.

There is a draft that's been circulated but because most of the people involved in this have been traveling and in Geneva with all the IG stuff going on.

So we hope to have it back to all of you as soon as possible. But then we are tracking it in discussing it in our groups.

Thomas Rickert: And (Mary) I guess that most of the members of this working group do have to have to go back to their respective groups and check with them. But nonetheless they would share their personal views with us. So would you be willing to do that?

(Mary): I can do that. Of course it is a personal view. I think some members may share some of my views but I think some of my views would be in divergence with quite a large number our members as well.

So with a huge grain of salt let me - I think practically speaking the question of the top level protections it is what it is.

I think in principle it's still it's not something that is not a path we should have gone down with the board and the GAC but we did. So the consensus position from our group on the top level makes a lot of sense.

On the second level I would say that my personal view -- and that I believe of my group as you know I think Thomas -- is we don't support acronym protections.

In terms of eligibility in the clearinghouse we don't like the idea of sunrise because it creates - it risks for potential registrants especially if we go down the acronym route.

We may be more amenable to the trademark claims process. So I certainly think a trademark claims process - trademark type claims notice process I should say may be workable provided that in the implementation there's, you know, clear protections for legitimate users and warnings and so forth.

On the UDRP and URS in modifying I think it certainly makes sense because we're not talking about trademarks rights here for the most part.

So I would say, you know, my personal response closely parallels what the registry stakeholder group sent in.

On the INGO issue I think I'm quite comfortable saying that I don't think NCUC or NCSG would support it.

I personally think that since we have not been able to come up a list of objective criteria that is correct. But what Claudia and her group have recently suggested I think is an interesting possibility that could be open for discussion if we have time.

And if we don't have time or we don't have consensus on that that it may be something to share with registry operators who may want to create new protection themselves.

So I hope I didn't send everybody to sleep that's my walk through my personal view of the spreadsheet. I mean I want to add though that, you know, whatever it is that we do in this group there's nothing to prevent registry operators from adding to or increasing the kind of protections that are already here.

So that's just something to bear in mind. And maybe what we want to do is have a minimum type of recommendation and have individual registries develop their protection mechanisms as they see fit for their market. So that's me. And I guess I did send everybody to sleep. Sorry.

Thomas Rickert: I was just on mute. I - thanks for speaking up because I was already talking in response to what you were saying. Again thank you for sharing your views with us and it's been very helpful and informative.

I have one follow up question for you though and that is with respect to sunrise. I, you know, at least to my - according to my assessment we would have broader support for the ability of organizations to apply for entry in the TMCH and/or equivalent service and then benefit from the trademark claim service.

But with respect to acronyms are with respect to sunrise you have been very hesitant. And I think that you (Mary) have even kicked that off at least you were the first one to mention that to the group.

Wouldn't you agree that sunrise though is a nice opportunity for the organizations in question to get their name if they want it?

And if they don't want it and if they don't pay for it then it would be available. And also if there is another rights holder with an entry in the TMCH or who is otherwise entitled to participate in sunrise according to the registries individual sunrise eligibility criteria then, you know, it - there would be a level playing field between the organization in question and the other rights holder.

So, you know, it's the mere fact that they can get the first byte of the apple potentially based on certain conditions already going too far for you.

(Mary): Actually thanks for asking because I should have clarified. I think there's a huge distinction between the full name and the acronym.

I think that - and there's also a distinction obviously between a sunrise process which is the first bite of the apple and a claims notification.

So if we go to full name versus acronym I don't see a problem with full name because then it makes very clear that it is the organization right?

And there's no reason why they would not - ought not to have that kind of potential reservation if they wish.

With the acronym that's kind of where I have a problem. And I suspect that's going to be where my group has a problem because of things we've discussed before.

So we make a distinction between names and acronyms then hopefully the sunrise position becomes clearer.

Thomas Rickert: Okay. Thank you very much. Who else wants to chime in on that? Okay now the question remains procedurally how we proceed with this.

And I would like to hear more views on my assessment of the consensus level. We heard Alan saying that he thinks that in some instances where I have declared or I - my assessment was that we have consensus or rough consensus on certain positions. He thinks we are not that far.

So I would very much like to hear from more people in the group as to what they're thinking is and also whether they think that with further negotiations we can achieve more than we presently have. Chuck please?

Chuck Gomes: Thanks Thomas and thanks to everyone else.

My personal assessment is I didn't think your assessments were that far off nor do I think that it matters too much whether it's consensus as defined in the charter for strong support at this stage of the game. So I don't think it pays to argue between which one it is.

With regard to next steps I think it's time for a preliminary report. And like several people starting with Alan said, you know, that report needs to show the differences of opinion and not particularly slant views any particular way although I mean each of us within our own groups can communicate to the - to our - the people in our organization with regard to where they're working groups at.

But the report should show the positions and arguments and ask for feedback.

So the fact that we do a preliminary report doesn't stop us from working. In fact we can continue to work on the list if needed calls if we think they'll be productive while the preliminary report is being commented on by community.

But I think we need broader feedback right now and if we delay much longer this thing's going to drag out way too long. And so I think we should get a preliminary report out there for public comment as soon as possible. Thanks.

Thomas Rickert: Thanks Chuck. I have one follow-up question for you. And that is whether, you know, your assessment is that we should do the - we should put out the report now, displaying the various options - and I'll get back to the options in a moment or whether, you know, judging from the previous discussions we

can even do the consensus call now and then publish the initial report including the outcome of the consensus call.

Because, you know we - we're trying to work so that we can have our work completed by the Durban meeting. And I guess for the community it might be more beneficial for them to get our, you know, preliminary results rather than just a set of options.

And in terms of options I guess that, you know, when I said that we were certainly display the various options I think we should make it easier for the reader and have different sets of recommendations that people can either support or, you know, not support but just, you know, listing all the various points that we have discussed over time might be too complicated and confusing for the reader.

Chuck Gomes: Okay Tom this is Chuck again. I think we ought to get out the preliminary report now. If we try to do a consensus call and see where we're at I mean I'm not opposed to that if we could do it very quickly.

My main priority is to get it out there and allow people to comment as soon as possible to get that process going so we have those - that feedback to wrap up our final report.

If - to the extent that we can show that there's strong support for certain positions I think that's okay and maybe that's helpful. I'm not sure so maybe I back off a little bit what I said in my first comments.

But anyway I think the sooner we can - I think we ought to get the preliminary report out there within a week so that we can start getting feedback.

In the meantime we keep working on areas where we think we can accomplish something where people want to - that people want to pursue further. And hopefully that answers your question.

Thomas Rickert: It does in fact Claudia please?

Claudia MacMaster Tamarit: Hi. I'd just like to lend some support to Chuck's sense of urgency and say I agree with the efficiency and the speeds with which we could really put out something to the public to get some comments.

And I think that for us really highlights the importance of making sure that all the protections that we asked for where there has been - and here I'm sorry Thomas I do have to agree with you but where there has been even if it is a minority but some for more reasonable protection for example the top level including funding projections and also including things like Avri talked about which was applicant support at the top level.

When we're talking about INGOs they're not all particularly ICANN savvy. They don't have a lot of necessarily resources to pay legal staff and technical staff to help them kind of understand what a top level is, how it could help them, you know reach their - reach the (work) world how to deal with the cybersquatting that they see and they don't always know what to do with.

So when we were asking for these kind of reasonable and weaker sort of protections that really do boil down to (unintelligible) financial and yes sometimes even informational assistance from ICANN it's because as an IGO we can see - INGO we can see some of these problems.

And I can recognize that other INGOs who might not be as large as we are might even find themselves in a harder position to even understand some of these issues.

We see that there's only two other INGOs other than the IOC and the Red Cross in this working group. And I think that speaks volumes. We've talked about it from the very beginning.

So that's why I think it just behooves us to if we do come out with this report, a preliminary report which I do hope it comes out soon that it include for the public considerations such weaker protections as applicant support and funding for objections and any other technical or financial assistance that I can provide, ICANN can provide to INGOs to make sure that we get some of that feedback from the public as well.

Thomas Rickert: Yes thank you Claudia. The difficulty though I see and I'm not saying that financial support or fee waivers should not go into the report.

But when you originally stated that all proposals that have been made during the lifetime of this working group should be included in the report as options for the community to consider I would say that this goes a little bit too far.

Because we do want to inform the community with the previous deliberations of the working group and if there were proposals that did not get any traction that within the working group then I think that - then I think that we don't have, you know, that we don't accurately reflect the view of the working group if we put them all into the report.

I see some agreement with this. Claudia if that was not your intention even better. So you will get a chance to look at the report prior to it being published certainly so you can double check whether it is something that you can - that you like or not and make suggestions.

But still in terms of protections or the recommendation for protections that we put into the report I guess it would be easiest and best way forward to have them packaged instead of recommendations that people can more easily digest.

Alan?

Alan Greenberg: Thank you. I think Claudia has made what she meant clear. But just to make it clearer as one of the proposals a whole bunch of ideas that have had no traction this report is not the opportunity to revise things that are really dead but things that are still alive and being brought up regularly it should be - it should be referencing. Thank you.

Thomas Rickert: Sure. That's my understanding as well. So I have received some support for the proposal to finalize and publish the initial report while keeping up our work on the mailing list.

And Alan I've - Alan and Claudia I've heard you saying that you have been working on some refinements to the set of recommendations or criteria that are on the table so we can continue working on those in parallel.

And as Chuck said nothing keeps us away from scheduling a call if need be. But I guess that for the moment I would take your direction unless Stephan or others might say completely different that we should not do the consensus call now, publish the report and keep on working on the mailing list. Stephan please.

Stephane Hankins: Thank you very much Thomas, Stephan Hankins, Red Cross Red Crescent.

Thomas it - because the conclusion seems to be, you know, that the report will be drafted and issued I was just wondering indeed and I think this might have been raised beforehand where the report will reflect some additional point of view or claims and or positions of the concerned organizations which might, you know, extend beyond the actual recommendations.

The reason I mention this, you know, as we have made the case before, you know, the very scope of the designations which are formulated in specification five, you know, do not as you know, you know, fully cover the concern that we have expressed which is that the designation Red Cross,

Red Crescent Red Crystal be reserved as well as, you know, the actual full names of the organizations concerned.

You'll remember that our initial understanding is that, you know, the projection of it designation Red Cross would adequately cover the actual names of Red Cross organizations such as American Red Cross and other. This doesn't - this is not the case.

So I just want to ask him you know, whether the report intends to at least flag, you know, that there are additional concerns and considerations that have been raised and that the organizations concerned have noted that, you know, these additional claims also need to be taken into consideration. Thank you.

Thomas Rickert: Thank you Stephan. And I would like to give Berry or Brian the opportunity to chime in. It is my understanding that various positions of the working group members will be referenced to if not included in the report. Is that correct?

Brian Beckham: This is Brian Beckham from ICANN staff. Usually yes the reports do, any formal statements that were submitted during the process of the working group would be included as part of - would be briefly summarized and then discussed in the report.

Thomas Rickert: Thanks Brian. Stephan does that answer your question?

Stephane Hankins: Yes thank you. Simply I assume that there is no need for us to restate once more. There's - there have been some different communications from the respective organizations over the past month.

But if there is a requirement that, you know, somehow this be reformulated if that can assist then, you know, we would be in the position to do that. Thank you.

Thomas Rickert: Thank you Stephan. And reading on the chat that we should be doing it right and not doing it fast but finding the right balance is certainly correct. I would like to add that doing it right might not necessarily be letting or alarm for the discussion to linger on forever.

You will have heard me say, you know, that this was meant as wake-up calls that people should make themselves heard if they want their positions to be reflected or that they could just come up with alternative proposals.

And as you well know the feedback from the working group participants has not been particularly overwhelming to put that way.

So I guess that this is, you know, you should perceive this all of you pretty much as one of the last opportunities to actually inject thoughts into the discussion process. It's not too late but it's high time for you to speak up. Alan please?

Alan Greenberg: Just to inject what I will call a note of reality in this if a draft report is going to be drafted there is going to have to be sufficient time for working group members to review it and comment on.

So it's not just a matter of drafting and sending out to the public for comment. Let's make sure the working group has an opportunity to have a go at it also please.

Thomas Rickert: Yes. The report will be finalized now and you will certainly get the opportunity to look at it for a couple of days.

Berry and Brian again I'm looking at you. Can you give me an estimate of a realistic timeframe for that?

((Crosstalk))

Brian Beckham: So what I suggest is that will have the first draft - well it'll be the second draft because we've already got a good start on it.

But we'll have the next draft available for the working group by Wednesday of next week. And then we can give the working group a week to respond to input to that and hopefully try to target for the 29th to start a public comment period.

And depending on the feedback that we get in the report that date may or may not change. But that gives us time to finalize. It gives us staff time to finalize all the inputs into the report, make sure that we gathered all the positions and points that per Stephan's comments.

And then finally that gives the working group a week to provide input into that draft before we make it out into hopefully the 29th for public comment and again depending on the amount of feedback that we receive and the number of changes will dictate what that target date ultimately becomes.

Thomas Rickert: Okay well that's very helpful. And with this I would like to end this call so next week we're not going to have a call. In fact we're not going to have calls unless we explicitly invite to them.

But that certainly doesn't mean that the working group should go to hibernation mode. We should actually be working on a set - on the set of recommendations more.

Please do use the opportunity and fill out the sheet, provide feedback. Please come up with alternative proposals and keep your calendars marked for Wednesdays at 16:00 UTC because, you know, should there be the need for the group to discuss then we will certainly call for a telephone conference for the group to discuss this.

But in the meantime I do hope that we will be able to refine what we have on the table via email. We will then publish the initial report. And then certainly once we have the feedback from the community we will carefully analyze that and discuss this with the group.

So unless you have more things to say today, you know, this would be your last opportunity to speak up.

I see Greg's hand up please.

Greg Shatan: I couldn't resist. I just want to point out that I did circulate a spreadsheet and that it does not represent a formal IPC position. But it does reflect the sense of the number of members.

The present - a column in the spreadsheet that's posted on the Adobe Connect that's - I think that's actually from Jim Bikoff so that's - neither are the sense of the IPC. But I think that's just a matter of how these things are formatted.

I did what a point out that while, you know, my personal position has generally been in support of protections at the top level that in polling the members of the IPC -- and as I say we haven't been through the polling or counter polling, you know, there's a divergence of views on whether there should be protections at the top level so unclear what the IPC piece position will be end up being.

It may be that the version still falls within some view of consensus or rough consensus. But right now they're there definitely those within the IPCs that would not support a protection of preventative protection or removal from delegation at the top level for IGOs generally. Thanks.

Thomas Rickert: Thanks Greg. And with this I think we can end this call. Thank you all for your participation patience. And I'm looking forward to reading you on the list and hearing from you soon. Take care.

Greg Shatan: Bye-bye.

Chuck Gomes: Thanks Thomas.

Man: Thank you.

Nathalie Peregrine: (unintelligible) the recording.

Woman: Thank you. Bye.

Man: Bye.

END