

**IGO-INGO Access to Curative Rights Protection Mechanisms Working Group  
TRANSCRIPT  
Wednesday 27 May 2015 at 16:00 UTC**

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Attendees:

George Kirikos - Individual  
Petter Rindforth – IPC  
Phil Corwin – BC  
Val Sherman - IPC  
Jay Chapman – Individual  
Jim Bikoff – IPC  
Paul Keating - NCUC  
Kristine Dorrain- Individual  
Paul Tattersfield - Individual  
Gary Campbell - GAC  
David Heasley - IPC  
Imran Ahmed Shah -

Apologies:

Oswaldo Novoa - NCUC  
Mason Cole – RySG  
Lori Schulman - IPC

ICANN staff:

Mary Wong  
Steve Chan  
Berry Cobb  
Amy Bivins

Nathalie Peregrine: Well good morning, good afternoon, good evening everybody and welcome to the IGO-INGO Security Wide Protection PDP Working Group Meeting on the 27th of May, 2015.

On the call today we have Petter Rindforth , George Kirikos, Jay Chapman, James Bikoff, Paul Tattersfield, Val Sherman, Kristine Dorrain and Phil Corwin. We've received apologies from Osvaldo Novoa, Mason Cole and Lori Schulman. And from staff we have Mary Wong, Steve Chan, Berry Cobb, Amy Bivins myself, Nathalie Peregrine.

I'd like to remind you all to please state your names before speaking for transcription purposes. Thank you ever so much and over to you, Petter.

Petter Rindforth: Thank you, Petter Rindforth here and welcome back everybody. It has been a time in between our meetings and although we have at least some points on the agenda to update you on and to further discuss. I had in fact hoped that it would be more specific and clear replies from some groups.

But, well, let's start. And point one, any new statements of interest? Okay I see no hands up. Though we had our Working Group scheduled for the 18th of September for a meeting. (My day on them), May 21 and I see that Phil is on the line, maybe you can say some of some points of that presentation and what was happening.

Phil Corwin: I'd be happy to Petter. Yes we gave a short briefing to the council during the call last Thursday. Updated them, basically told them that after making very substantial and rapid progress we had bogged down somewhat due to the need to get some degree of certainty as to the scope of sovereign immunity from - for IGOs.

Also noted and this was in the context of another matter involving the GAC that had just been discussed where similar frustrations had been voiced that

we had finally after waiting several months received a replay from the GAC; which will be discussed on this call.

But that it provided little in the way of meaningful response or facts on which we could move forward; which was something somewhat frustrating. Nonetheless we advised them that we were seeking a meeting with the GAC and possibly some IGO participants at the Buenos Aires meeting to get some better guidance and engage in some dialogue regarding the legal implications of what we're doing.

And that we would either find some other experts or make our own best estimates of the scope of the sovereign immunity and expect it to move forward with some great speed after Buenos Aires and wrap up our work hopefully by early fall and certainly in advance of the Dublin ICANN meeting.

So that's how it went. Any questions on that?

Man 1: Nothing so far.

Phil Corwin: Thank you.

Petter Rindforth: Thanks. Okay, yes, Phil mentioned the GAC response and you have all received it. It came to us now more or less a month ago. And I don't know if we can have the possibility to see it on the screen as well; which would be good. But I can start.

Mary Wong: Petter this is Mary. It should be on the screen for everybody. So if for some reason someone is not seeing it - yes - okay, great thanks.

Petter Rindforth: I see it now, good. Good. So the first question was what is the GAC's view on the Working Groups sufficient to exclude (iron jells) from further concentration in this PDP. And well frankly we have as clear replay as possible I think - the GAC does not have a position to share with the Working Group. Although

they welcome our recognition of their special protections afforded by ICANN to the International Olympic Committee and the International Red Cross and Red Crescent Movement.

So I think that replay is an acceptance of our conclusion and that they are satisfied that we have done the work so to speak. (Amenareef) you have any further - any of you have further comments or questions on that.

And then question Number 2, if it's the GACs position that I'm (entering you caretti rights) mechanism just be created. It is the GAC's understanding that the protections are forwarded to qualifying IGOs under Article 6 (Territapost) Convention would be the criteria for establishing standing under any dispute resolution procedure that may apply to your ideas.

And here they generally state that GAC advised to the ICANN Board has repeatedly emphasized that ideas are in an objectively different category to otherwise hold this. And that government support they would have limitation over appropriate protection of idea names, and acronyms on public policy grants.

This is the basis for the inclusion of IGOs and their reserved names list for gTLDs.

I take that - that's more or less just repeating the general statement that we actually asked to be further commented in in day tense and not the kind of reply that we looked for.

Mary, yes, please.

Mary Wong: Thanks Petter. And I don't know if any big Working Group member has commented as well. So while waiting for hands to go up or for anyone to interrupt me I guess I'll start.

And without trying to be too subjective or reading between the lines I think one of the things that struck staff when we saw the GAC response to this - and it's a very diplomatically-phrased response I should probably say but that's what it seems to be.

But the specific point I wanted to raise that we noted is that when the GAC talks about the inclusion of IGOs on the reserve names list for gTLDs, I think we all know that they're referring to the list of IGOs that enjoy the interim protections at the moment emanating from the prior PDP. But more to the point for us I think is that again as we know the basis for inclusion on that list that was compiled through the GAC was the (dot INT) criteria and not out of (Cole six ter).

So I don't know that there's anything more to do or say other than to note it for now. But if suddenly was a point that occurred to us as we looked at this document. Thanks.

Petter Rindforth: Thanks Mary, yes. I (certainly) agree. And I'm also sort of (jealous) to call up and say how they didn't really answer Question 2.

Now I said that they repeated what we already know from a more general point of view. Okay, then Question Number 3, in a posting amendments to the (UVR PNUS) of the GAC thus advised the GNSO to preclude any possible changes to its mutual U.S. (diction) (probations) to address specific sovereign immunity concerns from IGOs and how should (security) write process appropriately deal with this problem while also ensuring adequate due process protections for (resistance)?

And here is something that we want to have the possibility to discuss in a smaller group to do with upcoming item (waiting) to see what they really have in mind. But I read that - they wrote that down - the GAC notes that I used in the recommendation too of January 16, 2015 have advised that they consider

their claimed immunity from National U.S. (diction) to be from the (mountain to the road) as international borders.

And areas that there are non-judicial means to ensure due process such as - sorry - does it, I have some (unintelligible). Just scroll down. It is - such as (arbitration) which the GAC believes should be considered in more detail.

And while the current UDRP system is more or less (Russian arbitration) procedure. But what I think they meant here is the next part if any of the parties will consider to go further to complain that the session and go to a national court action and that we shall have some kind of next step in arbitration process. But that's something that we as I said need to be - to discuss in more detail on what they actually meant with that.

Any questions, comments? Yes Phil?

Phil Corwin: Yes, Petter. One comment and one question to staff. I found the overall document lacking in any very useful guidance though as Mary said we can read between the lines on some things. Although the lines she read between indicate a difference between us and the GAC on what would be required to have standing for any curative rights process for an IGO where we've come down squarely on taking the simple step of asserting their Article 6 Tier Rights under the Paris Convention and thinking that the (dot ent), having a (dot ent) domain is insufficient to confer standing.

I found their response to Question 4 the most disheartening; which doesn't mean I'm against meeting with them and maybe they'll be more frank in an off-the-record verbal conversation. But to tell us that fees for any process should be free or nominal and then to refuse, to decline to tell us where they think the current fees for the URS and the UDRP are nominal or not is really shows the lack of any useful guidance in this response.

My question for staff - under other issues they say with regard to the other issues in your correspondence on which you sought comment - I don't recall at this point in time what other issues we might have raised in our inquiry that they didn't address here. And understanding would be better addressed in a joint discussion at a future ICANN meeting. Do you recall what those are Mary? Or anyone else on staff?

Mary Wong: Phil, Petter, everybody, this is Mary. I don't recall offhand the specifics but I think if I'm not wrong that because the GAC like the other advisory committees was sent a somewhat customized version of the basic set of questions that we sent to all the SGBs and constituencies and so forth.

So I think that this refers to sort of the general part in our inquiry that talks about, you know, the other things with regard to our charter. So we started each of our solicitations with, you know, very specific questions such as excluding IGOs and how to ensure due process.

But then we pointed them to the additional questions in the Working Group charter. And then we - I think we noted in particular things like the URS possibly being considered consensus policy through a PDP, etc. So I think they're referring to those if I'm not mistaken.

Phil Corwin: Okay.

Petter Rindforth: Okay, thanks. Petter here and I will foresee from the Chat Room interesting note from (Paul), similar conflicts can be found with IGOs and employment law and George replied that yes, and we've seen court decisions which differ dramatically from IGOs claimed rights. So it seems then I think we know that from before that they want - IGOs want to have more protection with this system than they actually have when it comes to other formal forms of disputes.

And that may also frankly be the reason why we cannot get the perfectly clear reply or decision from GAC because that would actually give IGOs more protection than (countries) have, (since this bake).

So yes that was in short their reply. We go from GAC and I see Mary's hand up. You want to add something?

Mary Wong: Yes Petter I did want to add a couple of points if you don't mind. I think first the point that you've just made as to the concern that - or at least a concern - that IGOs and the immunity point might end up getting more rights than states themselves as well as the other concern that our Working Group has noted previously that we also noted has been something that has been discussed in the international forum such as at WIPO; which is this idea of creating new rights in and of themselves that don't exist.

So in this particular case then I think our Working Group has in our prior discussions noted that this is somewhat of a long-standing concern. And these concerns to some extent have been reflected in public documentation on the same type of topic even in a different (field) other than ICANN.

And on this point as well, if I go back to the GACs answer to our Question 3, when they speak about non-judicial means such as arbitration to ensure due process which they believe to be considered in more detail. I think it would be useful to have it on our records that in between the time that we sent these questions to the GAC and the receipt of their response this Working Group has looked at the due process issue in relation to an arbitration mechanism. And specifically we looked at one of the earlier WIPO documents about what a de-novo appeal mechanism might look like and what some of the dangers or concerns there might be.

So just again for a reminder for everybody of - even though I suspect no one on the call needs that reminder but also just putting it on the record for all of us. Thanks.



Petter Rindforth: Thanks. George?

George Kirikos: Yes, I wasn't really impressed with the letter obviously. One thing that is (pars) positive they do address in the other issues section at the end of the document that they're open to having a joint discussion at a future ICANN meeting. And they also said that they didn't respond to various other issues. So I was curious what those other issues were if anybody remembers what the other questions were that they didn't respond to; that they only responded to four questions but presumably we sent more than four.

Petter Rindforth: Yes, as I said we hope to have more informal upcoming meeting. And by the way I don't know the status of that. Have we got any more clarifications if there will be such a meeting and in that case when? Because before I give it over to you Mary it would be excellent if we could have that meeting before our full Working Group but I presume that we'll have to take the possibilities we have. And anyway - Mary, please.

Mary Wong: Thanks Petter and thanks George. So with respect to the meeting I think we are still trying to - following up on Phil's point and update to the council to facilitate discussions between yourselves as co-chairs through the coordination of the council and with Mason Cole as the GAC and GNSO liaison on Board to, you know, basically figure out where each group is - the GAC and the GNSO on this curative issue as well as on the preventative issue.

And it may also be something that the council would take up with the GAC or vice versa, possibly in Buenos Aires. We don't as yet have any confirmation either of the topics or of the meetings. But I think I can safely say that with respect to a sort of full joint discussion between our Working Group and the GAC it's very, very unlikely that that will happen in Buenos Aires because of scheduling if nothing else.

Phil Corwin: Okay, so, yes sorry, just getting unmuted. Yes Mary I did want to re-emphasize the point you just made. If we get a meeting in Buenos Aires it's likely to be - it's not going to be a meeting just for Working Group with GAC members. I think the best we can anticipate is a meeting of the co-chairs, some ICANN staff, some GAC representatives, possibly IGO - it's going to be a small meeting and the chairperson would report back to the full Working Group.

What I wanted to add to that Mary was certainly a hope that staff will as - and we can get this message to Mason as well - the GAC and the IGOs should definitely be quite clear on the fact that if they do not meet with us in Buenos Aires they've likely forfeited their chance for that discussion because this Working Group anticipates completing its work prior to Dublin. So I hope that will - that message can help in obtaining the meeting.

James Bikoff: Petter, it's James Bikoff.

Petter Rindforth: Yes, please go ahead.

James Bikoff: The only thing - we never got - to my recollection we never got a response to the detailed questions from the IGOs. Is that correct?

Petter Rindforth: Yes, that's correct.

James Bikoff: So I mean while we have these answers from the GAC most of which are not really responsive, the IGOs are the parties that seem to be asking for the protection and yet we have nothing from them. So I think, you know, until we get an answer from the IGOs it seems to me they should be the ones putting forth their position in detail on these questions. I'm not sure we're going to make a lot of progress if we don't have their answers.

Petter Rindforth: Thanks. Yes well I hope there will be one or two representatives from the IGOs in our informal meeting as well. But I completely agree with you that this

is in fact topic that IGOs are most interested in in having a result from and these are the groups that have also asked us initially to discuss and create some solutions. So even if GAC representatives have also contact with IGOs it would be excellent to have some representatives from the IGOs that we can discuss directly with.

James Bikoff: Well I think...

Petter Rindforth: Yes.

James Bikoff: ...that I, you know, that's very nice. But wouldn't it be a good time now to send a reminder letter to the IGOs and say something similar to what Phil said and say that we haven't gotten any detailed replies from you and if you want us to consider this further we must have a reply within, you know, certain period of time?

Petter Rindforth: Before I put in Mary I think that's a good idea. Although I may rephrase it in a more diplomatic way but definitely to send out a reminder and like a friendly note but understandable (phrase) that we need their reply in order to consider their specific topics in the right way.

Yes, Mary.

Mary Wong: Thanks Petter, thanks James. I was actually going to make a similar suggestions that the staff will follow up since we did send them the, you know, the two requests. The first one that they responded to along the lines that you suggested and noting that the plan is for us to have recommendations done before Dublin and so the input would be, you know, very helpful at this point.

I can also include in the reminder a query as to whether any of the IGOs, particularly the small group that had been mostly dealing with it plan to be in Buenos Aires and I can also note that our Working Group is planning to have

a session or a meeting in the Buenos Aires week and, you know, see whether we get a response to any one of those little notes and reminders. But I'll send them all in the same message.

Petter Rindforth: Perfect. Thanks. I think we all agree with that so please go ahead.

We also have to know that, I mean there is sermon and overview of the UDRP process so something that if we conclude something in our initial report there may be - these issues may come up again and that topic.

Okay so that's where we stand so far. And the next point of the agenda is just to actually do something before we have the possibility to meet with this small group. And that is to - possibility to use an external legal expert again, someone else than the prior one this time, to get out with some specific questions, I think specifically on this last topic.

And so I open up for the discussion on - well maybe we should start with what is your view on that idea, to get some further external input? Anyone that's against that idea?

I see no - yes, Steve.

Steve Chan: Thanks Petter. This is Steve from staff. And not to advocate for or against but just to provide a little thought exercise for us to determine whether or not we want to go down this path. So the legal research as it relates to immunity - so this was not anticipated cost for this group. So it does require staff to go through an exercise to see how we can find and create a budget to be able to get the research approved.

So there's a time and resource constraints for us that we need to work through. But in thinking about this I think it's good to understand, you know, what the outcome - so without trying to determine what the research might actually end up presenting to us I think we might have some ideas about how

the research may end up being provided back to us. Because both Mary and I believe George and perhaps (Paul) have done some research into the topics.

And, you know, they're conclusions are that immunity is not absolute and also that in certain cases they are willing to waive that immunity. And also - thought but - so that certain outcome may dictate what the group may develop as an outcome. And then if the opposite is true - if international standard in immunity is supposedly absolute how does that affect our work.

So I guess it's probably a good thing to understand how it would affect our work and whether or not going down the path of legal research is really going to affect our work. So if it's not absolute, maybe we leave the UDRP as is. And then if it is absolute then maybe we would be more inclined to develop a separate process for instance.

So I think it's possibly a good idea to at least consider how the legal research would affect us to help determine whether or not the logical path to go down.

Petter Rindforth: Thanks. Yes, I saw one of the documents we have for this discussion plus the staff briefing note on the possibility of de-nova appeals mechanism of the UDRP for (ideas). And although I note the four specific points there I'm not sure it's - it may be the best way to go.

But at least it's something that we note from historical point of view as a proposal, as you can see recommend and minimum elements for such a procedure. The (party) should be able to restate their case completely anew, they should not be confined to claiming that the UDRP panel did not consider such a relevant facts (unintelligible) (a pride) UDRP (was good) in case but should also be able to submit new evident and new factual or legal arguments.

And in order to provide a meaningful appeal, conducting (at-in) arbitration should, as a general rule, not be more bothersome than conducting litigation in a court of mutual jurisdiction. And I'm afraid an arbiter (terminal) should consist of one more neutral and independent decision makers who should not be identical or related to the panelists who ran the UDRP decisions.

And finally either party should be able to present his case in a complete manner. Arbiter (terminal) should for example have the authority to allow for or request additional (rate) of submission and it should be possible to hold in-person hearings.

I think from the previous comments when it discussed this I think it was U.S.A. that stated that they - let's see if I can find it. They stated that they were quite satisfied with the UDRP as it looks today and didn't want it any new ways to deal with the main disputes. So that's one point.

Phil?

Phil Corwin: Yes, Petter. A couple of points I'd like to make on this topic. One, given the potential political ramifications within ICANN of whatever this Working Group finally comes out with on a final decision, I believe that while it may not be absolutely necessary for us to consult with a recognized expert in the field of international on sovereign immunity it would be extremely helpful to be able to cite that in our final report as evidence for the basis for whatever we finally come up with.

So I hope that staff within ICANN as they're discussing financial requirements I can't imagine that this would take more than a few thousand dollars for - and perhaps we can get it at a reduced rate or even for free from a legal expert who wants to, you know, publish on this or be cited as our chief expert on this or whatever. But even a few thousand dollars, given the political stakes within ICANN I think would be worth it.

So far as the scope, you know, a couple points I'd like to make. I think we all know that IGOs should be protected in their core functions from interference from sovereign nations; that no nation should be able to enjoin an IGO from carrying out its core functions. But we're not talking about core functions here for any IGO.

We're talking about trademark rights; we've found that even under Article 6 Tier that no nation is bound to recognize their rights within the trademark system conferred by Article 6 Tier. Any nation has the right to object, to refuse to grant that protection within their own borders. And we're talking about what if any interference would be cause to an IGO in the extremely rare instance of a registrant appealing a UDRP decision or a decision another CRP to a court of mutual jurisdiction.

So within that an extremely rare circumstance in regard to trademark rights which are not the core function of any IGO. So I think we have to remember the context we're talking about here.

And my final point is that this Working Group has been mindful that in every arbitration proceeding there's another party, the domain registrant, and that party has rights as well. And the UDRP and URS were constructed in a manner to supplement existing legal rights and not to replace them. And that we have to consider whether anything we recommended that would deny a registrant access to national courts would be going beyond the proper scope of ICANN action.

So those are the points I wanted to make on this topic. But returning the key one, given the political stakes within ICANN I think it would be very helpful to be able to cite a recognized expert on the law of sovereign immunity as it applies to IGOs to the extent that we can find one.

Thank you.

Petter Rindforth: Thanks. And I agree that I mean the UDRP process was actually created to make a quick - and be a quick and simple system. And the panelists arbitrators are not considered to make their own searches or to ask for additional comments or papers. So and whatever comes up with - by the end of this year for their starting on next year we'll go through the UDRP process I don't think there will be that kind of changes in the (inter) process as such.

I just had - the good thing is that it's a simple and clear system that we should not add it any more complicated to that. And also that whatever conclusion we come up with it's good to have the possibility to note that we also have expert, external expert comments on our work and on our conclusions.

I just find the initial U.S. delegation reservations that were so supported by Japan when it said that arbitral appeal mechanisms will contribute to eliminating the four most important due process safeguards of the UDRP. The possibility of broad court review, the limitation of the proceeded merit courses of action, the limitation of available remedies and the limitation of trademark rights for which there is a firm basis in international law.

Other litigation expressed concern that this might undermine the legitimacy of the UDRP as a whole. Yes, Mary, please.

Mary Wong: That's Petter. And thanks to everybody as well. So just to follow up on Steve's earlier point, I think staff definitely had the impression from our previous calls that the Working Group was in favor of getting a legal expert to provide us with some further analysis.

I think what we're trying to get a handle on here is the scope of that query. And it's not just a concern of cost although, you know, cost clearly is something that we do need to factor in and so thanks Phil for providing the stated basis why we might need and want to do this at this point.



But so for example it would also impact on the type of legal expert that we would be looking for or even how many. If, for example, our question to the legal expert or questions consist mostly of this is what our research has shown as to the - what we believe to be a lack of uniformity or universality regarding (IJU) immunity. Can you further elaborate? Here are some of the pieces of legislation in cases that we found; would this be an accurate representation?

That would be one fairly specific area of inquiry. But it would be a somewhat different and additional area of inquiry if we also then went forward to ask the other question that concerns us with due process. As in so if we were then to go ahead and we're going to look at something that is framed in an arbitration model but that would ensure due process - what would that look like or are the concerns expressed with earlier processes founded.

Like I said I think that's a somewhat different query. It does broaden the scope and would affect who the expert is. So we're just trying to get a sense of the Working Group as to - well two things. First on the general level what is the scope in terms of the topics that you would like to see addressed. And then secondly we can get more specific and drill down a little bit into the actual questions that we want to send to the expert.

And our expectation as George notes in the Chat is that that would be based quite significantly on what our group has done to date. But I just wanted to highlight those so that we can guide our creation of the questions and so that we know as Steve notes, you know, how the potential outcomes might affect what we do going forward.

Petter Rindforth: Thanks Mary. So I'll open the floor to have any specific questions already that you want to put forward to that expert.

Phil Corwin: Petter...

Petter Rindforth: Yes I see (Paul)'s (unintelligible) there how to resolve this issue is today's goal. That would be perfect. Yes?

Phil Corwin: I was going to say, in looking at the GAC response to Question 3 they note that the IGOs back in January had advised that the claimed immunity to be fundamental but they don't claim it to be absolute; which I think we've concluded it's not. And I mean should we try to get more information, you know, from them rather than this type of sort of non-responsive response as to what they see as, you know, whether it is absolute or limited. And provide examples.

And I mean we know that they haven't really answered this question and neither has the GAC. But should we try to get the IGOs to give us a written response to this because I think it would be helpful, you know, maybe helpful in soliciting an opinion to have their viewpoint on that.

Petter Rindforth: So well what you suggest is that when we send a reminder to IGO we should put forward some extra questions or?

James Bikoff: Right. Right because I think it's, I mean, to say that it's fundamental - I mean what does that mean?

Petter Rindforth: I understand your point there although I'm not so sure that we will get the quick reply from them if we - when we remind them or (so) add some questions or put forward further specifications. That's a difficult situation. Either we have the possibility hopeful to - for get a reply on our initial questions and then hopefully can follow-up directly thereafter may be in Buenos Aires rather than to put new questions or points for them right now.

Yes Mary?

Mary Wong: Yes hi Petter, Phil, James, everybody. I guess just thinking out loud here. As we...

Petter Rindforth: Please do.

Mary Wong: ...don't - yes, thanks. As we don't know the time frame for a response from the IGOs; which I acknowledge is something that hopefully sending the reminder which we will do this week could at least elicit some sort of sense of when they think they can come back to us with something. I guess it's a question of going back to the other reasons of why the group might want to do this.

And so in the meantime we could discuss, you know, whether it is helpful to us to have I guess an additional point of input, besides the IGOs. It would be interesting - again I'm thinking out loud - if we get a somewhat different or seemingly different views from the various experts and IGOs. But my guess, you know, we'll see - do that - if we come to that.

I think from the staff side - a couple of things. In the past when we've reached out for external legal advice, you know, we've been very specific as to the questions we wanted answered because, you know, as we noted earlier that guides the outcomes amongst other things.

So looking at the Chat and as of listening to the discussion, I think the staff were quite comfortable that the Working Group would like to see a clarification or a confirmation that our understanding, our general preliminary understanding of the status of international law with regard to (IJU) immunity is what we have in our paper and our research.

Beyond that though I'm not sure that we're getting a really good sense of what else or what more specific points that we might want to raise. And I note that (Paul) has put a couple of suggestions in the Chat, (Paul Keeting) I mean and I don't know if everyone is in the Adobe Chat but (Paul).

If you don't mind I think I might read that one of these suggestions you made for scope is the extent to which immunity is waived as a result of disputes arising out of or in connection with trademark rights asserted by an entity; which is a related but somewhat different question.

So Petter I think what we're looking for here is some maybe further guidance that on top of the (international) confirmation that I've just summarized. Is there another question or are there other questions that the group would like to see addressed that we can try and package into a more specific referral if you like.

Petter Rindforth: Thanks Mary and thanks (Keeting) I was just reading that (a moment) and I think that's a good suggestion. And that's at least one question or one general question that we may put out in one or two sub-questions. But as you said it's important to have some kind of more specified reply from an external expert. I think it's good to have the possibility refer to that in our upcoming conclusions.

So (Paul Keeting) I agree it's one of the questions that we should put forward. And also (Paul) that seems (coverance) as the ideas may not be forthcoming because they have stated their position and they don't want to be seen to be negotiating away elements of what they are seeking.

Yes, you may be right there. And what we could do is to first just send out the specific, clear reminder and if they come back and say that we will not give you any further comments until, boy, when we see each other in Dublin; then we offer them - we and especially they will have time to also consider additional questions from us, if not too many; but one or two specific and additional questions.

Yes Philip.

Phil Corwin: Thanks Petter I just wanted to make one more point in this discussion; which is in my earlier remarks I emphasized that, you know, right to registrants to have access to their legal rights and whatever jurisdiction they reside in. There's also the speech aspect. It's no secret that some IGOs are not held in the highest regard. And a registrant might use the name or acronym of a INGO for legitimate criticism Website and the IGO might bring let's say it's UNESCO that sucks.

We have had new TLD and let's say that UNESCO brings a URS action and it's suspended and the registrant appeals either thru UDRP or a court action; there's a speech aspect involved there where we don't want to create or provide a process where registrants could be deprived of their legitimate right to criticize the activities of certain IGOs. The IGOs are organizations made up of people and organizations sometimes go astray and are inefficient or corrupt. And we can't be handing a weapon to IGOs where they can shut down any criticism.

So again I think that just emphasizes the stakes here and that what we have to fully consider whatever the legitimate rights are of IGOs and protect sovereign immunity as it applies to their core functions. What we're talking about here is trademarks and the counterbalancing rights of registrants as well as IGOs. Thank you.

Petter Rindforth: Thanks. And I think (Paul) questioned the idea of some (unintelligible). If an international arbitration panel consider Russian, Chinese and Iranian panelists it's likely to find much differently than a U.S. court for elements like free speech values, etc.

Yes I think you had good examples, we go back to George. I guess I see from the notes there that staff to send reminder to IGOs to include mention of planned date for Working Group report, Dublin and query IGO reps plan to be in Buenos Aires where the Working Group will have a session.

Yes I think it would be good to put in that reminder that we prefer to have their reply before Buenos Aires or at least to maybe more frankly point out that at least if we can meet them in Buenos Aires to have their initial comments on the response even if they haven't write it down yet.

As I said we - diplomatic reminder yes but we also need to be fairly clear that we need to have their response on our specific questions as soon as possible and hopefully at least informally in Buenos Aires. I don't say that it will work out but at least that we do it, we comment that.

Okay just to - yes?

James Bikoff: I think - this is James Bikoff. I think it would be - I mean you could put this diplomatically but I think it would be preferable to say in this reminder letter that they should give us written comments before Buenos Aires because to make any discussion, you know, really productive not to have their comments in advance would really slow things down.

I mean all we're going to get are oral statements that might be conclusory so to have, you know, something in writing would really, you know, be important in order to prepare the Working Group representatives who will be in Buenos Aires to be able to have a productive discussion.

Petter Rindforth: Yes, thanks. I think it can be phrased that way and still be - still point out the importance of their reply in too non-diplomatic way. So good.

James Bikoff: But also that the reply should be detailed and not conclusory the way, you know, we don't want a statement saying it's a fundamental right, you know, that, you know, immunity is a fundamental right - what they said before. I mean that doesn't say anything. So I think we want to press them for some detailed responses to these questions that were put.

Petter Rindforth: Yes exactly. I mean that should be clearly noted that we want to have a reply on the questions that we sent out, not just as you said general reply that will not give us any further inputs to work on or decide on. And I mean if they cannot come up with that in due time we also frankly have to take that as the case is not of that importance for them anymore.

So if they want us to fully consider this we need to have reply on our specific follow-up questions.

Okay we are on that full time. Just wanted to conclude that we have at least one initial question to send out to the external expert and we can work on that. And also say within the next few days, this week, whatever further questions it's good to put on that agenda. And I said initially we will have a, hopefully have a small meeting on bonafide (sort of) (unintelligible) from GAC and IGOs.

And when I leave over to Mary when is our full Working Group meeting in Buenos Aires? Mary?

Mary Wong: Yes, Petter and everybody. The staff have requested a Wednesday morning slot which is the normal slot for GNSO Working Group meetings. And hopefully that time will not be too terrible for Working Group members who will be joining us remotely. We don't have the confirmed detailed schedule yet but we specifically requested that it not be in conflict with the Board and GAC meeting that's also going on on Wednesday morning.

So we're quite hopeful that we will have a decent time slot on Wednesday morning local time that will follow the Board and GAC meeting.

Petter Rindforth: Thanks. And finally I saw George question are we meeting next week. And we discussed that and wasn't it so Mary that we conclude that next week we don't have enough on the agenda but we will at least schedule one -

schedule one for one further meeting before Buenos Aires to have a follow-up and see what further issues we have. Mary?

Mary Wong: That's correct Petter. As discussed in the Chairs and Staff Call before today the thought is that it would be helpful to at least schedule a meeting before Buenos Aires. And given that we will have sent a reminder to the IGOs, like I said we'll do it within the next day or so. One thought that we've just had as staff is that if we do go ahead with that meeting prior to Buenos Aires in say two weeks' time, two Wednesday's from now, we can also try to nail down the specific scope and questions for the international law expert as well.

And I notice that Phil has his hand up so I'm going to stop talking.

Phil Corwin: Yes I just want to note that in the co-chair's discussion with staff yesterday we had tentatively scheduled a meeting for Wednesday, June 10. And I do want to note for the record that if that slips to the 17th I likely will not be able to participate that day because that's the day in which I'll be traveling to Buenos Aires.

So hopefully we'll have that call on the 10th.

Petter Rindforth: Okay so that's noted. Well we'll send out the proposed date for the next meeting. So thank you all for today. And we'll as soon as possible send out the list of questions for external expert and I also look forward to all further input we can get from you on that topic.

Thanks.

Phil Corwin: Thank you.

James Bikoff: Yes, thanks.

Mary Wong: That's Petter, thanks everybody.



Coordinator: Thank you. We will now stop the recordings.

END