

## **Transcription ICANN Beijing Meeting**

### **IGO-INGO PDP meeting**

**Monday 8 April 2013 at 16:00 local time**

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Thomas Rickert: Good afternoon, everybody. We're about to start so if I could ask you to be seated, and I will also invite the working group members that are not sitting at the table, if you want to please come and join.

And even to add to that, those who are sitting at the back of the room, don't be afraid. You can come closer. We won't bite you. Yeah.

So I have been informed that the recording has already started. Looking at (Eric) to my left, do we have any remote participants?

(Eric): As of 15 minutes ago, no. But we might get one or two.

Jim Bikoff: This is Jim (unintelligible).

Thomas Rickert: Good afternoon or good morning, (Jim).

David Heasley: And (David Heasley).

Thomas Rickert: Hello, (David).

(Eric): (Unintelligible).

Thomas Rickert: Good. My name is Thomas Rickert, and I'm the working group chair. And I would like us to do a little roll call, and we're going to do it in a different fashion than we usually would, by moving around the table. And I'm asking everybody to briefly state their name and whom they represent.

Kiran Malancharuvil: Kiran Malancharuvil with Silverberg, Goldman and Bikoff, here representing the (ISC).

Alan Greenberg: Alan Greenberg, At-Large Advisory Committee, and liaison to the GNSO.

Chuck Gomes: Chuck Gomes from the Registry Stakeholder Group.

Man: (Unintelligible), DNSO (unintelligible) ISP contingency.

Man: (Unintelligible).

Nakatani: (Unintelligible), Interpol. I've been trying to understand the process of this issue. Thank you.

Stephane Hankins: (Unintelligible), International Committee of the Red Cross. Thank you.

Charlotte Lindsey: Charlotte Lindsey from the International Committee of the Red Cross.

Christopher Rassi: Christopher Rassi from the International Federation of the Red Cross and Red Crescent Societies.

Avri Doria: Avri Doria, in this context, member of the NCSG Policy Committee.

Robin Gross: I'm Robin Gross, and the chair of the Non-Commercial Stakeholder Group.

David Roache-Turner: David Roache-Turner. I'm from WIPO.

John Berard: John Berard from the GNSO Council, and an interloper of the working group.

David Maher: David Maher, Registry Stakeholder Group.

Elizabeth Finberg: Elizabeth Finberg, Registry Stakeholder Group.

Brian Peck: Brian Peck, ICANN Staff.

Lars Hoffman: (Las Hoffman), ICANN Staff also.

Carlos Reyes: Carlos Reyes from ICANN.

Berry Cobb: And Berry Cobb from ICANN. And one more over there, I believe?

Alexandra Escosias: (Alexandra Escosias) from the (ACD).

Thomas Rickert: I think we have everybody covered in the room. We've already mentioned remote participants, and I'm sure that we will add more remote participants to the list should any further participants join.

I would like to thank all of you for coming to today's meeting. I think that - or my hope is that a face-to-face meeting might be more productive because it's, you know, we have faces to voices on a telephone conference bridge, and I think that's always better than, you know, working together remotely.

Nonetheless, surely our remote participants today are equally welcome to this meeting. Unfortunately or it's a pity that you can't be with us in person today.

We have prepared a little deck of slides as an introduction. But I see that most people here have already read that or heard that. You know, to be quite

honest, I have expected a (huger) number of observers or attendees that are completely new to this that might have needed a little bit of introduction.

So my proposal for the sake of time to you is that those who are not familiar with the background of our work and the approach that we've taken, please do stay in this room after this meeting, and I'm more than happy to show you through all this. But I guess for now we should focus on maybe looking at options for the group to proceed.

As you will remember from the last telephone conference, I have sort of summarized where we are at the moment, and the situation seems to be like we are in a phase now where we've done all the fact finding.

All the participants have presented their views and explained their reasons as to why they think certain designations should be protected, and others have stated their concerns or have explained to the group why they think certain protections should not be granted.

And my observation was that in this situation where everybody is standing firm with their positions, we might end up having divergence, which is the absence of consensus, which is a potential outcome or possible outcome of the policy development process.

But I think I would refresh your memory on the potential outcomes of that to maybe trigger or stimulate the invention or negotiation of middle ground or compromise positions that would be closer to consensus than what we have at the moment.

You will note that, at least for the IOC, the RC/RC and the IGOs, there is GAC advice in place. And on the basis of this GAC advice, the ICANN Board has granted temporary protections for certain designations. Now the organizations seeking protections might not have an interest in negotiating

middle ground here, because they feel safe with what they get through the GAC with the assistance of the ICANN Board.

I think that the report that we're going to publish, hopefully soon, will explain to the outside world that have not participated in our discussion, the complexity of the matter -- the legal complexity of things; the difficulties of not being perceived to be arbitrary in choosing criteria; and so on and so forth. So I think there are at least chances that the Board -- maybe even the GAC -- might choose not to perpetuate the protections they have granted temporarily.

Those who are proposing protections might end up in the situation where the Board does perpetuate those protections. And they might lose an opportunity to actually improve their situation by getting exemption procedures in place that are more beneficial, or maybe even reducing the scope of protections for the organizations in question.

So by standing firm by everybody's positions and not compromising, we might end up in the situation that nobody around the table might like. Also, we might come to a situation where GAC advice is in place. And if we choose to say not to certain recommendations, then the Board is faced with a situation where they have conflicting GAC advice and GNSO recommendations.

And I'm not going to speculate to towards which direction the ICANN Board will lean. That's up for each of us to decide. But the outcome might not please everyone as well. I have taken a lot of attempts - I have made a lot of attempts to stimulate the discussion on compromises. And I think that other compromise solutions sort of have to come from the group.

I will make one - maybe not final, but I'm going to make one attempt today to encourage something which hopefully might be closer to consensus than what we have on the table so far, based on what I've heard from the GNSO Council as well as from the GAC during this weekend.

But should we not be able to make substantial progress with this, the plan is to publish the initial report, and the draft version of the report has gone out to the list. I can talk about the report in a second. We had instant feedback from the IOC that I'm going to comment on briefly. But the idea is that we put out the report and then allow for community input.

It is possible, in the PDP work that we're doing, that we're not doing the consensus call now, and present to the community our recommendations for public comment. But what we're going to do is we're going to explicitly state where we are, and that we're awaiting public comment to then do a consensus call afterwards, which will hopefully stimulate further, you know, fresh ideas from the community that might help inform our further deliberations.

So that's where we are at the moment. I would like to encourage you to read the very draft report. It has been prepared by Brian and Berry, and kudos to you for having done this enormous task in such a short period of time.

It has been made very clear in the covering note that this is an early draft, and therefore we were cognizant of the fact that we did not reflect all the (unintelligible) of our deliberations. So I have also identified a couple of areas that need to be - that need to contain more information. So that's what we know.

But we would like you to go through the report. In the best case, prepare a mark-up version and add the bits that you think are necessary.

What I have on my plate for adding is more reference to background material than there is at the moment, so there's going to be a reference to comments that have been submitted earlier. There's going to be reference to the wiki that we have, because the intention of this PDP is to resolve the issue of IGO and INGO names once and for all.

So I think the broader encompass, the scope, of our deliberations in the report, the better it will be for - the better it would serve the community for future requests for protection, as a result of information that we have basically discussed everything that needs to be discussed there, and that therefore no further policy work is required.

But we might miss on that or we might not cover everything that you wanted to the report. So please take some time and inform us what needs to go in there. Also I will put more information into the report as to the approach that we've taken, and the methodology that we have applied, because if the outcome should be one that is not beneficial to everybody, people will question how we did it.

And I think or I hope, you know, you might not all like where we are, but I hope that at least you have trust in the integrity of the process and trust in the fact that we have given everybody an opportunity to make themselves heard; that we have taken a lot of time to discuss the various positions; and that there were ample opportunities where I have encouraged the group to come up with further proposals or come up with compromise positions so that, you know, in case this is going to be disappointing to some in terms of outcome, that at least we know the process was carried out in an appropriate manner.

Now having said that, I would like to undertake another attempt to propose to you something which will hopefully be middle ground. We have learned in the meantime that the GAC has produced a list of designations that has been sent to the Board. And there has been a response already by the Board to the GAC.

Unfortunately this list is not available to us at the moment. (David), I'm sure that you know the list. Is there something that you could share with us?

David Roache-Turner: Absolutely.

Thomas Rickert: Because I think it would be - (David)?

David Roache-Turner: Are you sure it's not available yet? I saw it on an ICANN daily developments, the letter from the GAC to (Bonnie) and Steve Crocker, with two red Xs, that has a list of about 190, 200 names.

Thomas Rickert: That's the list that I was referring to, but as of yesterday it was not published on the Web site, so we've reached out to ICANN staff and Board members to help us with getting the list.

It's good that it's there. I think that, you know, now that we know that there is a list to look at, there is not the big unknown, dangerous 10,000 ICANN list that people might be afraid of. So I think, you know, if we have it - Berry's already looking it up on the Web site. I guess we should put it on the screen for everybody to see.

But, you know, the observation that I made is that the GAC has produced this list to the Board, and the expectation from the GAC is that not only the Board but also the GNSO respect GAC advice in its policy-making. That's one. And I think that we haven't emphasized this a lot during our discussions. You know, there is a clear expectation that the GNSO respect GAC advice, which primarily or exclusively is directed at the Board, technically.

The second observation is that some of us may have thought that this list that has been produced should feed the Board in terms of temporary protections stemming from the Board resolution. And we have discussed, for hours and hours, qualification criteria for certain organizations to sort of have a very generic methodology as to how the list can be populated.

It is now the view of the GAC that this list that was created shall not be for the initial round, but that this list that has been produced shall be used on a

permanent basis, and that the GAC might provide updated lists to the Board from time to time. (David), please?

David Roache-Turner: Just as a point of information, the list is also accompanied by a (unintelligible) which sets out the criteria which form the basis for the population of the list.

So I think indeed, as we (unintelligible) from an IGO perspective maintained throughout this process, I think it would indeed be very helpful for this group to take the benefit not only of the contents of the list, but also the contents of the criteria that are proposed to accompany it for purposes of our deliberations here.

Thomas Rickert: Is it obvious, the criteria that you have shared with the working group previously?

David Roache-Turner: They are, in essence. But they've been modified in certain key respects as a result of their journey through the GAC deliberative process. And the essentials of those criteria are now back from an IGO perspective.

The GAC is advising the protection of IGO names and acronyms against unauthorized third-party registrations where these - and the criteria are organizations that are established under treaty; or which are members - sorry, or which are present on the UN list of observers; or which are funded programs of the UN.

So those are the three criteria which form the basis of the contents of the list, which, as (David) rightly indicated, you can see it on the screen. It's around 200. So you can see there they're detailed, and included in it also is the name and the relevant acronym and the number that corresponds in the list. But I think if you go to Page 1, you can see the criteria on the slide there.

Thomas Rickert: Thanks, (David). That's very informative. (Unintelligible) though that I guess the group would have appreciated to learn about these, you know, during one of our weekly calls. So I think that's unfortunate that we are the last group to know, although we are the ones that should work on this. Avri, please?

Avri Doria: Yeah, just a quick question. So how long has this been actually going on in the GAC, that they've been working on this, just out of curiosity?

David Roache-Turner: Since Toronto.

Avri Doria: Since Toronto.

David Roache-Turner: Since Toronto, yes. The GAC advice - I think the initial GAC advice was issued, I think, in the weeks immediately after Toronto. And the list, the initial list, I think was submitted to the Board December of last year.

Avri Doria: So this is one of those parallel policy tracks the GAC was talking about in the meeting the other day.

David Roache-Turner: Yeah, exactly. But I did just want to be clear for the record as well that certainly from our perspective on the IGO side, I think we've been clear and consistent in our references to that GAC process, and about the utility of using the criteria in the list generated as a result of that as a feed point into our deliberations here.

We haven't seen the list or injected the list into the discussion so far, but it is a parallel process that I think we will be pretty familiar with. Here are the criteria up on the screen.

Thomas Rickert: I have (Alan) and then Chuck.

Alan Greenberg: Yeah, I haven't had a chance to go through the entire list, but from what I've seen, it's actually - it says there international organizations created by treaties

with states signing off to an international agreement. It would be interesting to run down to see if some of the better known names are there or not.

Thomas Rickert: Chuck?

Chuck Gomes: I have a question. I don't know if anybody knows the answer to this. (David) might. I see on that list full organization names and acronym names. Is it the intent that the acronyms would also be protected?

David Roache-Turner: Yes, it's very much the intent that the acronyms would also be protected. So the preclusion would be against third-party registration at the second level in the current round that corresponds either to the full name or to the acronym. And obviously it's the acronym that would more typically be the subject of a potential claim for registration protection that would of course be sought.

Chuck Gomes: And speaking mostly - this is Chuck again. I'm speaking mostly personally, because we still have to vet this within the Registry Stakeholder Group. And David will - David Maher will be our representative and representing the ultimate Registry's position.

But I can tell you there has been concern about acronyms because you're really closing off a lot of possibilities when you do acronyms -- company names, non-profit organization names that aren't governmental entities; and so forth. There are going to be so many matches for those that I guess I'm just raising a red flag.

I suspect from our perspective - I like the idea of a - personally I like the idea of a finite list -- exact matches of those organizational names. I personally do. I'm not speaking for the Registry Stakeholder Group.

But you start adding acronyms, and I think we're going to run into a problem in the Registry Stakeholder Group because of how many organizations

throughout the world in different jurisdictions will have the same acronym. And in some cases, those acronyms are probably better known -- at least in the local jurisdiction -- than the international governmental organization acronym.

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

Kiran Malancharuvil: Just a question about this qualification criteria and how that would inform our deliberations in the working group, and the qualification criteria for all the names that we are considering. I would assume that this list that we're looking at would only inform the qualification criteria for IGOs. Am I correct?

Thomas Rickert: That is my understanding. We have just - I've just received confirmation that this communication has been published on ICANN's Web site last night. So we didn't really have the chance. I've reached out to Board members and ICANN staff to get hold of the communication. It was not possible obviously. So I think we're in an unfortunate situation to be the last to know.

Kiran Malancharuvil: Just as a quick follow-up to that, I just - the reason why we would advocate for that position would be because insofar as it relates to acronyms, we know that the IOC and the Red Cross are not asking for their acronyms to be protected.

And I think this would kind of further inform our suggestion in our email from yesterday to develop distinctive (unintelligible) sets of qualification criteria for the different organizations that were deliberating within the context of this group. Thank you.

Thomas Rickert: Now the - (David)?

David Roache-Turner: I just wanted to make a couple of points in connection with this latest iteration of the list that was submitted only towards the very end of last

month. But in response to some of the points that Chuck briefly touched upon, and I know he's now out of the room, but...

Man: (Unintelligible).

David Roache-Turner: Oh. The principal purpose, I suppose, that underlined the provision of the advice by the GAC on the criteria of course took account the fact that IGOs are organizations that are interested in engaging in work of a public nature, pursuant to their status under international law, and that that statute under international law provides the protection both of the name and of the acronym of the corresponding organization where that's claimed.

The second is just to note a point which was mentioned earlier, which is that the list is not an extensive one when viewed against the number of potential domain name registrations that are available in a vastly expanded DNS. We're talking here about a list of about 200 IGOs, and about 200 acronyms in particular.

And further just to note that the GAC advice does contemplate a mechanism to manage the possibility of legitimate co-existence in circumstances where it is identified to exist. And that mechanism is through the vehicle of the agreement or the consent of the relevant IGO itself to the use that could be made potentially of domain names that correspond to the names or acronyms.

So there is a mechanism there by which a prospective registrant could approach an IGO and seek to use a domain name that corresponded to an acronym. And in circumstances where that request would be reasonable, of course it would not be a request that IGOs would anticipate refusing.

Thomas Rickert: Thanks, (David). That's helpful. I should also mention that there has been a response to this letter by the ICANN Board that raises three questions, one of which is related to acronyms. I think that, you know, since we only learned

about these criteria now, it's not really possible for the group to discuss them, period. I guess what I'm trying to do now are - the thoughts that I wanted to share with you are the following.

I think that now knowing that there is a limited number of designations that is on the list, the group might be willing to consider an option whereby we save ourselves the trouble of establishing criteria. You know, I think the biggest problem for us was to come up with objective criteria for who should be eligible to certain protection mechanisms.

If the GAC sticks to this list, then, you know, that list could be a qualification criterion. So we might be able to say protections are granted - and I'm talking about exact match names now. I'm not discussing acronyms. This list could be taken and whoever's on that list produced by the GAC to the Board, would be eligible to protection mechanisms.

What these could be, we're going to discuss in a second. I think it's different for the acronyms. So let's please discuss this separately.

For the top level, I guess one might envisage an option whereby the exact match names are put on a reserved names list. We have not seen any application from any of the organizations, being IOC, RC/RC or IGOs.

You know, we can only talk about these three now, because the fourth certainly would not be covered by the GAC advice, so we would need to continue our deliberations on INGOs. So please do bear in mind I'm talking about these three now.

So we could reserve the names, the exact match names, of these organizations. And the easiest way for, you know, if the IGO would say we need an exemption procedure to apply for top levels, top level domains, would be that they would go through the GAC again. So that would save us the trouble, us as a community, would save us the trouble of crafting an

exemption process for that. Just thinking out loudly and trying to be pragmatic.

I guess it would be up to the representatives of the various organizations to say, "Well, no, that would be too cumbersome." So speak up now or, you know, send that comment to the list very shortly. But I think in the absence of that need for an exemption process at the top level, it might be good enough just to put these 200 names in bold letters, names under reserve names list, so nobody can access them.

I'm not sure whether we would have any conflicting legitimate third-party use of the organizations' names. So we can go through the list and have that double-checked. But in case that weren't the case, reservation of the exact match names might be the easiest solution.

For the second level I think not the exact copy of that approach could try because I think it's quite likely that at least some of the three categories of organizations might choose to have a second level registration in certain TLDs.

So we would need a protection mechanism or the idea that I want to inject into your brains is have a protection mechanism with an exemption process for the organizations in question so block them and the organizations can get access to them -- again only talking about exact match names. And I think it would be good for us to double check whether there might be legitimate users of the IGOs names at least for we can extensively discuss the cases of the IOC and there were concerns with legitimate third party users of Olympic Paint or Olympic Airlines and stuff like that that they would be using Olympic and I think you had asked for protection of Olympian and Olympiad. So we wouldn't have an issue with that even but you would need to double check that.

So my suggestion for a package would be that -- I'll get to you in a second -- that there would be - there could be identical strain protections at the second level with exemptions for the organizations themselves to get access to those names. And before I move to acronyms I will give the opportunity to Kirin to comment.

Kiran Malancharuvil: Just a point of clarification on Olympic and Olympiad. Those are the two words.

Thomas Rickert: Okay so then the exemption process would need to be extended to third party use for exact match names as well.

I think that for acronyms the situation is more complicated. This has been part of our discussions. I think the reason why I'm making this proposal now or at least to try to stimulate it further discussion to find middle ground is that I think the least concerns for freedom of expression are with exact match names of the organizations, at least for the most part. I think the biggest concerns are with acronyms.

So if we sort of move towards protections for the exact match names I hope that there might be flexibility in return for acronyms where I think the biggest number of innovations in question is not having an acronym that talking in trademark terms would even be protectable because it's too generic. And I think the danger of confusion is also less present for acronyms than for the organizations' exact match names.

I see you David shaking your head. I saw Avri shaking her head as well. I guess that I don't have the illusion of unifying us in a couple of minutes but I just wanted to share some thoughts with you as to how we might come closer to something which might resemble consensus.

Just to finish that thought, for the acronyms from what I heard everybody say maybe an option could be to open the TMCH for acronyms which would have

the benefit for the organizations in question to participate in sunrise and if there is no other party requesting that specific acronym, they would get the name without having competitors basically. If there were another eligible party having an entry in the TMCH there would be a contention set between the respective organization and the rights holder that is also in the trademark clearinghouse, and the resolution of that contention would be up to the contention resolution mechanisms with the respective registry.

So there would be a level playing field for the acronyms which might be descriptive only which I think is important for those that have objections to protections. And if the organization does not choose to participate in the sunrise then the name might actually be freed up for general availability. But that clearly also shows that the organization does not perceive the need to use or the need to protect the acronym in that specific name space.

I wanted to share these ideas with you. I've seen a lot of facial reactions to that already so I hope that we're going to enter into an interesting discussion now please.

(Alexandra Scopin): Yes hi (Alexandra Scopin) from the OECD. I just wanted to make one small point about what you said about acronyms and the possibility to trademark them. As it works currently for names and acronyms of international organizations in almost every jurisdiction in the world they are protected in a way in which under trademark laws in most cases which can present a trademark holder or can prevent an individual or an entity from registering a trademark with the same or similar name or acronym.

And how it has worked on occasion because it's not often that it happens but it does happen occasionally, there are other entities will want to register the same name, they request for the IGO -- this has happened to the RCC several times or entity -- a later which says that we don't object to the other party registering the trademark. So far there's not been an objection but I know of one case of another IGO that has an objection where there was

clearly a conflicting business -- in quotes because IGOs are not really business -- but conflicting activity. And this is how it works for trademarks.

So it is - the acronyms are protected under trademark law. The point I want to make is you can mention that perhaps even under trademark law the acronym could not be protected. Thank you.

Thomas Rickert: (Unintelligible) of the past convention prevents - only protects against commercial use so there are no absolute protections for names and acronyms even. And I'm just - maybe we should leave the pure legal side out of the equation for the moment because I think what we can do as a policy-making effort we can step away from that. We've heard from general counsel that the legal situation is not as clear as some of us might have hoped to get to a solution more easily.

I get your point but I think your point also illustrates that you shouldn't be that afraid of this TMCH proposal because you know that those who have corresponding trademarks are those that you have already granted the permitting to use a special designation. So there might be even less potential for conflict in that phase.

Do we have more people that want to speak? David please.

David Roache-Turner: Thanks very much Thomas. I think that the suggestion that you made earlier about scope for forward movement on the issue of name is a constructive one and I think it's certainly one that IGOs in general would support subject to the caveat that from the perspective of acronyms is an area in which we would I think need to continue to pursue our objectives in this discussion of securing protection against inappropriate registrations. And that while I think we are certainly very open to having discussions about making them still managing the coexistence issue, including potentially through the clearinghouse, these would need to be discussions that we would need to see the power consent of the IGO itself through any sort

registrations, playing the foundational key and I think we'd be very open to talking about pragmatic mechanisms to achieve that effect.

But for us even our understanding of the protections that we enjoy that would need to be a part of the discussion and I think it's important from our perspective that we are although we are naming acronyms are protected under trademark law, IGOs of course not trademarked as such for the reasons I mentioned in my introduction (unintelligible).

Thomas Rickert: David before I move to (Alan) I would just like to translate what you were just saying from a negotiating perspective. You worked on the first two proposals which are exactly what you asked for so I'm not surprised you agree with them and for the third you said that we need to shape it in a way that you need to consent to every user's acronym which is also exactly what you've been asking for. So it's not really a compromise that you're stipulating.

I guess that we might need to see a little bit more of the willingness to - more flexibility on acronyms I guess is what I'm trying to say. I hear your point and I understand that this is more or less reconfirmation of the position that you had voiced earlier but I think that we're now at a stage where we need to try to move a little bit more. That's just an observation. If you want to rank the likelihood of acceptance inside the group than we need a little bit more. Just a thought.

(Alan) please.

Alan Greenberg: A comment and a question. In terms of consent I know from my organization's point of view -- I think I can speak on behalf of ALAC without asking them first on this one -- consent would have to be either given or not given within a modest period of time or if no answer it defaults with consent because otherwise it's too easy to stonewall and not answer. So I'm just putting that on the table that if consent ends up being part of the equation there has to be timeouts associated with it.

The second is a little bit of clarity and maybe I'm just not awake enough. Are we talking about blocking these names whether it's acronyms or not, whatever we're talking about, are we talking about blocking, are we talking about trademark, trademark clearinghouse type use with a claims notice? I have a follow-up question but I need the answer first.

Thomas Rickert: The proposal that I put on the table would be what would you would call blocking with an exception mechanism for the exact match names and use of the trademark clearinghouse more or less on an as is basis for the acronyms which means the possibility to participate in sunrise but if you don't it's open for registration and you would have the claims notice for the initial 90 days. One could certainly envision to extending that but the idea was to as a compromise position to grant the block for the exact match names because that's less contentious and have more flexibility with the acronyms.

Alan Greenberg: Okay. If you look at the attachments to the board's reply to the GAC they have a huge laundry list of organizations which may not have trademarked the three or four or two-letter acronym but use it as a means of identifying themselves. So again whatever words we might put in the permission list it's got to be - the IGO cannot simply say no if the organization wants to use an acronym which is normally associated with it and is not trying to masquerade as the IGO.

I think we're going to have to end up having to put real words around this otherwise it's too easy to abuse.

Thomas Rickert: Just to be clear what I proposed was to only have the names on the list and it's up for the organizations then to go to the clearinghouse which we would entitle them to or we wouldn't make a recommendation that the acronyms can be put into the TMCH.

Alan Greenberg: You're saying only block the names, the full names, not the acronyms?

Thomas Rickert: That's what I perceived having listened to all of you for many months as potential middle ground.

Alan Greenberg: Okay I eagerly await someone trying to register the full name for UNICEF as a domain name.

Thomas Rickert: But that was the primary concern which was addressed in GAC advice.

Alan Greenberg: I find part of this whole discussion surreal.

Thomas Rickert: We can discuss that further over a beer.

David Roache-Turner: I agree. This is David Roache-Turner from WIPO. I agree wholeheartedly with that characterization and the suggestion for a beer. Perhaps it would help liberate some of our discussions.

But I would also like to respond to the first point that (Alan) made which is I think from an IGO perspective we are very open to having discussions about the period and the reasonableness of the period in which a response whether positive or negative would need to be provided to a perspective registrant to a domain which corresponds precisely to an IGO acronym.

I also agree very much that really from a realistic real world perspective when we're talking here principally about the acronyms the vast majority of IGOs certainly that are engaged in the IGO coalition in this discussion process brand principally through their acronym. The formal name is something that appears in treaty documents but so often they're so unwieldy and lengthy that they're very rarely used in a real world context.

Thomas Rickert: Thank you David. I have Avri next.

Avri Doria: Thank you, Avri Doria speaking. First I wanted to explain why I was shaking my head. The idea of somebody injecting thoughts into it was really something I needed to shake my head at.

I find the idea of adding names to the reserve list sort of abhorrent but I can almost live with it. If it was a universal - if people really insist on a block and they get the GAC and the board to agree that blocking those names is the right thing to do then at a certain point it may really be time to surrender and say yes name's on a reserve list, no one can use them. They're sacred and get special privilege because of the various conditions that have been defined as somehow important to the GAC and the board has bought into it.

The idea of creating a special category of reserve names that gives the privilege of giving somebody the permission to allow names to go off it is something that I think I would rail against until the end of my days because I don't see any way to prevent it from being gamed into a backdoor licensing situation.

Now it's just I have tried to think about how can that possibly created that somebody has permission to let somebody off the privilege list without it being possible to game it - understand we're at ICANN, if there is a way to gain something it will be gamed. There's absolutely no doubt about that. That's one of the certainties of this. And so I think that this is sort of a critical thing to me that any notion that contains an entity having permission to say no I suspend my privilege and allow you to register the name has to be a nonstarter because this is ICANN and that is our reality.

The whole notion of the giving these names the same sort of privileges that we give trademarks is something that I've become more amenable to over time and it's something I would have a hard time convincing my stakeholder group of but that notion is sort of well we're already giving it to people that have trademarks and I think the legitimacy of trademarks and the legitimacy of these names is pretty much about the same. So if we're going to offer that

kind of privilege to trademarks I can see sort of a sort of relative notion that says yes why not. It's not unreasonable to offer that same kind of privilege to someone who's name is marked by an intergovernmental agreement as opposed to paying some money to a registration group in some country so that I can almost see a way to.

I'm not sure that I could convince the stakeholder group of these positions but when you're looking for what kinds of things could even be considered I think you really insist on having something blocked, it is blocked for everyone for all time until the reserve list gets modified. You insist that you deserve privileges, the same privileges as trademark, that's arguable. But the creation of a new category of thing that is complicated and has permissions to enforce the privilege versus not enforcing the privilege I think that is far too complex a new creation at this point or any point.

So that's sort of when you're looking for where I have a sort of compromise point that's kind of how it falls.

Thomas Rickert: Avri just a follow-up question, would your concerns apply to both the top as well as the second level?

Avri Doria: For the licensing of one privilege to another?

Thomas Rickert: Yes.

Avri Doria: Yes. In other words I think doing that at the top level, yes I see it pretty much as the same. I'd say if we basically are saying a name shouldn't be in a DNS then the name shouldn't be in the DNS.

Thomas Rickert: Yes I just need to understand the position correctly. So you're saying that it would not be acceptable to have a list of the likes of the .unitedpostallunion to be freed up for the respective organizations?

Avri Doria: Yes correct. I'm saying once you ask for the name to be blocked, it is blocked. You can go for .post if you want or names that works for your group, that remains open to anyone. So just like the if the UPU went for something other than .upu someone else could go for a name other than their name that they were getting for their community or their group so I don't see that that prevents them from getting a top level domain name in a later round because they can come up with a word that's not one of the blocked words and they can apply for it in that sense. So yes.

Thomas Rickert: What I'd like to do I'd like the organizations that have asked for protections to maybe chime in and respond to that. Maybe there's no need for this exemption process for this and we will get back to the second level in a moment. Please...

Elizabeth Finberg: Hi Elizabeth Finberg, Public Interest Registry. I have a question about if we were to open up the clearinghouse for such that the acronyms would be capable of being entered into the clearinghouse, do you have envision an extended claims notice period or would they simply get the 90 days that a trademark would get?

Thomas Rickert: To be quite honest I have thought of the easiest possible solution which would be just allowing for entries in the trademark clearinghouse. I think the organizations in question, at least those that suffer from abuse of registrations, have monitoring services in place anyway so I think they would not hugely benefit from the extension of the claims service but that's just a personal thought.

And talking about thoughts I'd like to respond to Avri briefly that it shouldn't have sounded like indoctrination if I spoke about injecting ideas. Maybe that's just a language issue so it shouldn't sound that partial you're right. I have Kirin next.

Kirin Malancharuvil: Kirin Malancharuvil for the record. In response to you Avri's concern that this is ICANN so people will abuse the system I would suggest on the other side that this ICANN and we can put our heads together and solve the problem that you see.

And I think that what has happened here is Jim Bikoff a few weeks back in a group meeting suggested that we might create a system in which we sanctioned organizations that are found to be abusing the system as far as creating an exception procedure and obtaining a letter of non-objection is concerned.

And I think this is one of those suggestions that slips through the cracks with this group that was ignored to the detriment of reaching the compromise that we suggest that week as Thomas stated in the beginning and maybe we should revisit that as possibly addressing some of those concerns. Thank you.

Thomas Rickert: Thank you Kirin. Please (Alexandra).

(Alexandra Scopin): Thank you. I hadn't thought about your idea of monetizing it because as far as IGOs and I think I can speak I think for IGOs the permissions are granted on a monthly basis with monthly licensing. This is what's happening with trademarks when you ask for any compensation.

And also another point of the reserves names there is currently in the applicant handbook for the other reserve names whether it's country names or ICANN names or a process of consent. It is always possible to register a country name or with the concern of that government. So I don't think that the government would -- I'm not speaking for the government -- would ask for compensation, I don't know.

In any case we didn't think of it so you see how noncommercial we are because we didn't even think of that. But I think that the only reason that

we're proposing a (unintelligible) process is that we recognize that there might be entities with the same acronyms who may legitimately want to use that and if it's not abusive or conflicting to our acronyms, it hasn't been a problem so far under trademark so it should not pose a problem for the DNS. Thank you.

Thomas Rickert: (Alexandra) your point is well heard. Just to finish our discussion for the top level, I guess that once you're on the reserve names list it would require a so-called RSTEP procedure to get hold of that name. So I guess the question that we need to answer first pragmatically is whether you think that any IGO in the IGO Coalition is interesting in applying for a TLD.

If none of them is then we can just reserve them and we don't need to worry about exemption procedures, maybe even we think that as a group that the risk of abusive TLD applications for exact match names, imagine if a third party taking \$185,000 to abusively try to get the TLD .unitedpostalunion as an exact match name, if we think that there is no such risk or that the risk is sufficiently low, we might revert to the proposal that is already in the initial report and maybe consider giving the organizations that would benefit from our policy recommendations should there be any, treat them as ALAC or the GAC and allow them to make objections without fees.

So that in the unlikely case that something happen they would be able to object against the application which would address Avri's concern because then there wouldn't be any reservation in the first place. So maybe you can share some instant feedback on that with us. I'm not sure whether any of you would like to chime in.

(Alexandra Scopin): Instant feedback is we'd have to consult. But at the top level for the name it might be something to consider. But we'd have to consult back to it. I'm not sure we can speak for all IGOs. We can certainly discuss with our coalition which includes some of the major ones but any other IGOs there might be.

Thomas Rickert: So I have David and then (Alan).

David Roache-Turner: Thanks Thomas. David Roache-Turner, WIPO for the record. Just a point of clarification which is that the formulation of the GAC advice which we saw up on the screen earlier was drafted in quite a particular way to take account of the possibility that there may be some IGOs which would want to register at the top level and there certainly is one IGO at least that is invested in the current round of new gTLDs which has made an application to obtain a top level registration which is Sun. And so the language that we see used in that formulation is quite specific because it precludes third party registration either at the top or second level for that reason.

I think from WIPO's perspective the proposal that you just made would not be problematic because I think from our organization's perspective we don't envision getting into future gTLD rounds but I think as (Alexandra) mentioned we (unintelligible).

Woman: (Unintelligible).

Thomas Rickert: For the moment I'm talking about the full name. I think we have the slide our discussion because the discussion is becoming too (unintelligible). (Alan)?

Alan Greenberg: Two points, it dawns on me that if we assume you were talking about acronyms if we put a rule in saying no one else can register the acronym at the top level but they can, you better be careful of the wording because we do have two-letter acronyms which are forbidden for other reasons. So just in interest (unintelligible).

I'm in the unenviable position for me of speaking not on behalf of but from a point of view of registrars. Registrars have said a number of times and I'm in no position to explain any background

But I said claims notices that go on are really problematic particularly with the reseller model. So we better be careful about saying yes but we want a 308 days' notice that may be a problem there.

And (unintelligible) as Avri alluded to this concept of you can register it but first you have to get permission is a grant at the same level of brand new concept that is not in any of our registration models and registrar models (unintelligible) today.

That is let's put it on hold for three weeks while we send a letter to someone. The concept of implementing this for this relatively small number of names sounds like a really I won't say outrageous but a really, really difficult thing to do and expensive thing to do. Thank you.

Thomas Rickert: Just in terms of structure in our discussion I would like you to consult with your coalition as to the - whether there is the possibility of further foreseeing the part of not reserving but maybe giving a free waiver for objections for the top level because in that case the IGOs themselves could apply for TLDs.

And they would still have the option to get rid of abusive TLD registrations which I think, you know, might be an option.

Second option that I'd like everybody to think about is whether we should (unintelligible) the registration - reservation without crafting an exemption procedure which certainly would require some level of uncertainty on the side of the beneficiaries of the program that they might not apply for that TLD, you know, because it's too cumbersome or they - the names too long whatever.

You know, checking against the list that is now on the table might be the exercise to get a quick result of that.

And like at least - please.

Charlotte Lindsey: Thank you. (Charlotte Vinte) from the lftd. I have - from the International Committee of the Red Cross on behalf of the Red Cross Red Crescent.

Just have a number of points that I would like to raise in relation to the proposal put forward. Firstly we would want to ensure that any decision doesn't affect the moratorium and ensures the protection is permanent that has already been recorded.

Secondly that if - would want a modified reserve list to ensure that in line with the indicative use which is granted under the Geneva Conventions of 1949 the national entities.

Thirdly there is - the licensing is not an issue from the Red Cross Red Crescent movement. There is a number of entities which are authorized to use the names R unlimited. And it's finite and determined. They have to be recognized by the International Committee of the Red Cross (unintelligible) Federation of Red Cross.

Fourthly the definition or the examination that has been given towards these (unintelligible) for the IGO list it's the - we have not seen this definition would need to examine it a bit more closely.

But we're curious to understand why the definition is not the same as the one that was enshrined in the applicant guidebook which was - which would have captured under that the names of at least the two international organization components of the Red Cross and Red Crescent movement namely the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent.

Lastly it's interesting to look at this two pronged approach. And we appreciate the reflection that's gone into that particularly we would want to ensure that there are curative rights mechanisms to catch any strings, similarities, acronyms that are recognized and enshrined, and the names of the national

bodies of the Red Cross Red Crescent movement which was required to be protected and a waiver off the fees in that regard. Thank you.

Thomas Rickert: Thank you for refreshing our memory on the RCRC expectations. The criteria that you find here actually they're for IGOs.

So - and we are in not in any way confined to what is currently in applicant guidebook. In fact we're trying to come up with policy recommendations to replace what's currently in the applicant guidebook.

I think that talking about - I think we should use the remainder of time to discuss protections at the second level. Again we're talking about exact matched names and then the acronyms.

Maybe to start with the exact matched names we heard a lot of concerns about really protecting those names without, you know, or reserving those names without an exception procedure for the organizations in question.

But then complexity has been added to that for example with the Olympic terms where legitimate third party use might even exist for an exact match of a designation that might go on a list.

We heard concerns about the licensing scheme. And I think regardless, you know, I think that the term licensing scheme is not appropriate in this case.

I think what is the fundamental issue that certain members of the working group have with such concept is that approving this has been sought within the organization that has protections.

And that they claim that if there is legitimate third party use no such approval for using a certain acronym for example would be required in the first place.

And therefore my question to the organizations that have been looking for protection is whether you would be open to discussions to not leave the determination or the approval to the organization in question but to an independent third party. I guess they could take some of the pressure away from our discussions. Kirin.

Kirin Malancharuvil: Thank you Thomas this is Kirin Malancharuvil. I as our team drafted the potential exemption procedure on the second level I feel the need to just clarify one point.

I don't think at any point did we say that the only way in which organizations or parties with a legitimate interest in the word would be able to register is by going through the organization itself.

We offered that option as the easiest and cheapest way a.k.a. the free way in which a party could get a letter of non-rejection quickly and without any problems.

As we've stated before and we will state again in no way will we solicit any kind of licensing, or fees, or anything like that for those parties which have an established legitimate interest in the names or really anyone else.

So we put that forth as an option the first option. And if organizations were uncomfortable with that or if we established that there was an illegitimate interest third party interest then we gave you - we gave the group a very comprehensive starting off point for different options in which a third party evaluator would be able to evaluate the legitimate interest.

So I think it's a slight mischaracterization to say that we ever said that the only in which a legitimate third party could register was through the organization's permission. Thank you.

Thomas Rickert: Kirin just a point of clarification. I did not in any way suggest that you were not flexible with that. I think with your ongoing contributions to the group and in particular the ideas that you have crafted for an exemption procedure you have indicated that there would be flexibility.

But there - despite the fact that you have indicated there is flexibility there have been no further responses from the working group as to that they, you know, that they would like to pick the other option right?

And so I think that's what the response was missing. And since this concern is resurfacing almost in every discussion I think we should take this concern as a starting point to just bluntly ask the question whether those seeking protections would be open or support a compromised position whereby the exemptions are vetted or evaluated by third party and not approval is granted by the organization in question itself.

So I think that's homework again. I'm sure that you can't answer that right now but let's please discuss and consider an exemption procedure whereby an independent third party evaluates whether there is legitimate third party use.

And if there is legitimate third party use then a registration request can proceed in whatever fashion that's going to be implemented ultimately. And if no such legitimate use can be determined then it would fail. (Alan)?

Alan Greenberg: I'll just point out that ICANN distinctly implements things at no cost to ICANN therefore if it's a third party either it's going to be paid for by the IGOs through some sort of levy or something or paid for by the requester which I think would raise a whole bunch of issues quite akin to licensing.

Thomas Rickert: (Alan) thank you for that remark. I think that it's always good when discussing policy to have the implementation in mind.

Nonetheless I think we should try to think out of the box and try to find mechanisms that could suit the needs of most parts of the community. I have Kirin and (unintelligible).

Kirin Malancharuvil: Sorry just a quick question. A couple of weeks ago there was some discussion about using the RSTEP as part of the exemption procedure.

And I guess I think it was Chuck -- is Chuck still in here he's not -- it was Chuck Gomes who said that he was going to get back to the group about the possibility of that because most of us who are not in the contracted parties don't actually know how the RSTEP works and how it might work to inform an exception procedure.

So since our team in particular (David Healy) is drafting the exemption procedure as best as he can. It would be helpful to get that information. We don't want that to fall through the cracks. Thank you.

Thomas Rickert: Berry.

Berry Cobb: It's Berry with ICANN. I'll send out a link to the list of the RSTEP documentation. And it does have some summary information about what that process is like.

But just to reiterate that it's not an overnight process it's very lengthy and detailed and may not necessarily be suitable for something that matches the proposal that was supplied by the IOC.

Kirin Malancharuvil: Thanks Berry.

Thomas Rickert: David.

David Roache-Turner: Thanks Thomas. David Roche-Turner from WIPO for the record just three, two points and a question the first is I agree with (Alan) that there will be certain challenges.

I think as we go down the path if we go down the path of mechanisms that are fee based and involve costs.

And the second point is I think it is desirable to the extent that we're able - that we are able to keep any process that we do design as simple and low cost as we possibly can. I think that that's important.

And the third is just a question Thomas with respect to your proposal I just want to clarify with you that when you get us the homework to think about whether or not a mechanism is something that we could work with a third party independent (unintelligible) mechanism whether you would (unintelligible) that operating only after there has been the preliminary size of the perspective registrant approaching the IGO with a request and receiving a response from them prior to that request.

Obviously if the IGO gives their consent there's no issue. And if they don't give their consent then there might be a question to be discussed of about whether we - whether or not we would want a process that then followed that.

But I think from a practical and efficiency based perspective it does make sense to make the first quarter call the relevant organization to seek that approval and only if it would be withheld to then think about the need for a slightly more complicated procedure to follow that.

Thomas Rickert: To be quite honest I think that I would be open to any suggestion that's broadly supported. The mechanism that you're suggestion - that you're suggesting that you go to the organization question first because that might be the quickest and most cost efficient approach I sympathize with that.

However I think that chances for that to be broadly supported are lower than having the process where the want to be registrant doesn't need to go to the organization in question because it would be perceived - I think that the crux is that the that, you know, you have to go to the organization because what you describe is a two pronged approach would be just to have a sort of an appeal process in case the organization doesn't give approval.

And I think that might be perceived by those that do not subscribe to the concept of the organization giving approval the impression that the registrant or the projected registrant is put in a less fortunate situation.

This is just guessing. So let's put that out to the group. And if I may would you - I'd like to ask you to maybe put that in a couple of sentences and send it to the group to, you know, just as a, you know, you don't have to formulate it as a WIPO proposal but just another (unintelligible) that could facilitate our discussion. But I think whatever is easy should be on our plate for consideration.

I guess the remaining few minutes that we have unless you all say that we should go on for a little bit longer I'm not sure whether that would be possible logistically.

I think we need to get back to the question of acronyms. I think that the acronyms are where the most pressure is.

You know, the organizations in question apart from the IOC which has made clear that they are not going for the acronym but the other three types of organizations have asked for acronym protection and I think this is where the contention is.

Avri suggested that she might sympathize with the thought of putting your designations or the designations that are listed on a level playing field with trademarks.

Is that something that you have given any consideration to, you know, the effect of that would be that you won't get a block on those names but that you could get access to the protection mechanisms that are in place.

And that will be set up for the new gTLDs with the acronyms as well which would be a combination of the use of sunrise trademark claims notice, URS, and UDRP. So it would be a mixture of preventive and curative mechanisms that you could then use.

David Roache-Turner: This is David from WIPO. Just to better understand that what would be the preventative aspect of that proposal just made I understand the curative aspects but what is the preventative component of Avri's proposal because I'm not sure that I heard it?

Thomas Rickert: The preventative mechanism at least that's the way how it has so described in the ICANN documentation would the participation in the TMCH.

David Roache-Turner: I think from an IGO perspective that would probably not be sufficient to make the types of protections that we are seeking here because those protections are based essentially on the preventive approach.

And the trademark clearinghouses it doesn't say essentially summarize which is a defensive registration which requires everything expenditure of money, to make the registration, and to secure it, and maintenance of a payment for that purpose for which its domain name that conflicts.

And all of the other mechanisms are cost based procedures the URS, the UDRP which currently doesn't apply to IGOs for example.

So I think it's an important component that the protection that we're seeking that the registration by third parties be precluded.

I think we are very open to the continuing discussions that you're having here today about mechanisms to manage potential coexistence in which we would want to see the content of the IGO plan (unintelligible).

I think we're also very open to discussions potentially about mechanisms in which independent third parties might be able to make determinations on that as well provided that they were sufficiently simple and cost effective to operate.

Thomas Rickert: Time's up unless you want to go on. I'm not sure whether that's possible for you. So I would like to use the - oh (Marie) sorry please.

Marie McCann: Hello. I'm sorry for coming in so late. I was trying to participate through Adobe Connect while being a panelist in a different session. Just don't tell my other session.

So this is a question for the group which I actually put into Adobe and I don't know if this - good time this was discussed but this goes back to the GAC letter or the letter from (unintelligible) and (Steve)'s reply.

And given the timelines that we're looking at and given the fact that the board committee will respond formally to the GAC I wonder if it would be a good idea I think it would be for this group to request a meeting with the board's committee prior to that deadline and prior to us issuing our report. I think it might be informative for both sides especially to the board if we do that.

Thomas Rickert: That point is well noted. I think that, you know, we should see communication. We will take care of that and make sure that we offer the opportunity for such discussion. (Stephan).

Stephane Hankins: Just wanted to add one point to the discussion. One of them is indeed I think it's come up in the discussion here that we could have or would opt or there could be an option for a two pronged approach right?

There would be first of all in line with the current moratorium specific crossroad questions on the IOC names inscription on the modified reserve domain lists that would be the first prong.

And then there would be a potentially second prong which would be access securative rights mechanisms for senior at top and second level potentially to cover acronyms which indeed raise the number of (unintelligible) issues.

But I wanted to add to that that if, you know, a facilitated access to such mechanisms was afforded -- this is the second prong -- then that might also address the concern with regard to invitations and strings confusing a similar which, you know, we understand is in itself, you know, a complex issue to do with especially at the second level.

But if indeed, you know, there is - as regard to this, you know, in addition to the modified reserve list protections.

If there is a facilitated access to those procedures then, you know, that would allow the organizations to take proper action when strings confusingly similar are undertaken.

For that purpose there would be two issues. One of them would be a wave of fees but it would also be to ensure the spending of the respective organizations to be able to activate the procedures concerned which I think is in itself a question. Thank you.

Thomas Rickert: Thank you very much (Stephan). And actually you've been referring and this is encouraging message that I want you to take home.

The opening of existing and future RPMs I guess is the point where we have close to consensus on. And I think that we should expand this consensus to other areas.

I think or I do hope that you have some food for thought to take home to your respective groups and organizations.

We will continue our discussion next Wednesday. Yes. Shall we do the 17th or do you want - I'm not sure how you're doing in terms of travel? Can we make that because that's quite close to this meeting?

Woman: Not Wednesday as in day after tomorrow right?

Thomas Rickert: No not tomorrow no. Next week. Let's keep the 17th. And should you not be comfortable with that day please send an email to the list. And if they are a lot of people they can't make it then we might cancel in the last minute. I thank you all for your participation and your interest. I would stay for a couple of more minutes for those who want to give me the introductory talk that we skipped I'm available. Thank you very much.

END